

# 2010 Statehouse Report

## **Incremental Victories Make 2010 Session a Success for Municipalities, Despite Tax Cap Resolutions**

Even though most thought that the 2010 legislative session would wrap up a week early, it finally concluded in the early morning hours on Saturday, March 13. Negotiations over Senate Bill 23 dealing with unemployment compensation delayed the projected early conclusion of the session. It was evident from the start of session that there would not be any legislation passed that increased taxes or imposed new taxes. All four caucuses made this point clear early on as did the Governor in his State of the State address. Therefore, IACT's hopes quickly diminished of passing any uniform statewide municipal option taxing authority. With the 2010 general election looming where the leadership and redistricting of the closely divided Indiana House is at stake, legislators were looking to avoid controversy and play up issues that would sell well to the voters.

Despite the intricacies of the session, cities and towns came out ahead. IACT's list of victories overwhelmingly outweighed our disappointments. For instance, House Enrolled Act 1086, an omnibus state and local administration bill, contained several provisions that IACT favored. IACT's lobbyists worked with the bill's author and other stakeholders on components of this legislation months before session started. Key provisions that we favored such as allowing a local option to phase-in a fire territory levy and providing for interim legislative study on local option income distribution formulas remained in the bill. Later added to the bill were other favorable components such as allowing for a local option to go to referendum when a controlled project only meets threshold for petition remonstrance and a provision which allows the Department of Local Government Finance to make adjustments so that local units are not penalized with their levy the following year after using cash balances.

IACT was disappointed, however, that legislation prohibiting local government employees from serving on the legislative body for which they worked failed. There was clear support on the Senate side and by the Governor for this legislation, but the measure was never able to pass in the House.

As always, IACT does as much if not more work to defeat or improve unfavorable legislation as it does to push our initiatives. In these tough economic times when legislators know that local governments are cash strapped, it is amazing to see the amount of legislation filed that imposes mandated costs on local governments or new layers of government and procedures to handle constituents' disputes – all at a cost to the taxpayer. For instance, HB 1075, a bill titled, "Public Access Issues," would have permitted a judge to impose *personal* fines up to \$500 on elected officials or management level staff for violating the Open Door Law or Access to Records Act. It also would have required units of government to send out email notifications of public meetings to anyone who requests notification or post information about the meetings on the unit's website. These types of mandates require staff time, software and come at a cost to local government.

IACT was able to work with lawmakers to stop HB 1075 and another email notification bill, SB 230, from becoming law. IACT also played defense on other legislation, House Bill 1107, that would have brought municipal water utilities under Indiana Utility Regulatory Commission scrutiny if water ratepayers outside of the municipal boundaries paid rates 25% more than ratepayers inside the boundaries. This bill died in the Senate. In addition, Senate Bill 145, initiated by the insurance industry would have prohibited local government from charging fees for emergency response or hazmat clean-up. IACT opposed this bill and it died after committee passage.

As predicted, early in the session, the joint resolution passed which will now take the question to the voters via referendum in November of whether or not the property tax caps should be made permanent in the Indiana Constitution. The ballot language for the question was also passed in House Enrolled Act 1086.

This Statehouse Report contains an in-depth summary of the enrolled acts that we believe are important to municipalities. Unless otherwise noted in the summary, the legislation takes effect on July 1, 2009. To read the actual legislation that passed, we encourage you to visit the State of Indiana's legislative webpage at <http://www.in.gov/legislative/>. As always, feel free to contact our legislative team at (317) 237-6200 if you have any questions.

# Table of Contents

**Administration.....4**

**Community and Economic Development.....11**

**Courts.....13**

**Environmental.....16**

**Finance.....17**

**Pensions.....24**

**Public Safety.....27**

**Transportation.....30**

**Utilities.....32**

**Criminal Code Changes.....33**

## Top 10 Legislative Issues with Municipal Impact

1. HEA 1059 – Mandatory Provisional Tax Bills. . . . . 17
2. HJR 1 – Constitutional Amendment for Tax Caps. . . . . 23
3. HEA 1086 – Levy Adjustments for Using Cash Balances. . . . . 18
4. HEA 1086 – CCI Funds Can be Used for Any Purpose . . . . . 19
5. HEA 1086 – LOIT and Economic Development Study . . . . . 20
6. HEA 1086 – Local Option Referendum on Controlled Projects . . . . 18
7. HEA 1086 – Fire Territory Levy Phase-in . . . . . 18
8. HEA 1086 – Economic Improvement Districts . . . . . 19
9. HEA 1186 – Inter-local Agreements for Courts.. . . . 13
10. SEA 30 – Early Retirement Option for 1977 Fund Members. . . . . 25

# Administration

## Government Ethics (HEA 1001, P.L. 58 -2010)

*Author: B. Patrick Bauer*

*Sponsor: Patricia Miller*

- Multiple effective dates.
- Provides that legislative statements of economic interests are not required to report gifts made to the filer or purchases by a lobbyist from the filer's business. Requires legislative branch lobbyists to report such gifts and purchases.
- Requires the lobby registration commission to compile reports of these gifts and purchases and provide them to the legislator or candidate. Provides that legislators may not accept honoraria for appearances or speeches but may accept payment or reimbursement of travel expenses for appearances or speeches.
- Reduces the amount of a single gift or expenditure that must be reported by a lobbyist from \$100 to \$50. Reduces the calendar year threshold of gifts and expenditures that must be reported from \$500 to \$250. Provides that a lobbyist may not make a gift with a value of more than \$50 to a legislative person unless the lobbyist receives the approval of the legislative person before making the gift. The lobbyist must also inform the legislative person of the cost of the gift the lobbyist wants to make at the time the lobbyist seeks their consent to make the gift.
- Provides that a lobbyist may not pay expenses for out-of-state travel for a legislative person with exceptions for: (1) "public policy meetings" approved by speaker of the House of Representatives or the president pro tempore of the senate; or (2) expenses that are associated with the legislative person's service as an officer, member of the board of directors, employee, or independent contractor of the person paying the expenses.
- Provides that the definition of a legislative branch "lobbyist" does not include public officials, public employees, or a national organization established for the education and support of legislative leadership, legislators, legislative staff, or related government employees.
- Requires expenditures that can be "clearly and reasonably" attributed to a particular legislative person to be reported with respect to that legislative person. Requires that a lobbyist's expenditure report must include expenses for a function or activity to which all of any of the following are invited: (1) Members of the general assembly. (2) Members of the House of Representatives. (3) Members of the senate. (4) Members of a standing or other committee established by the rules of the house of representative or senate. (5) Members of a study committee. (6) Members of a caucus of the House of Representatives or the senate.
- Establishes rules for reporting an expenditure made by more than one lobbyist, the reporting of expenditures with respect to a particular legislative person, and allocation of expenditures made with respect to several legislative persons.
- Changes the time during which a lobbyist must report certain expenditures with a legislator from seven days to 15 business days.

- Increases the daily penalty for failure to file lobbyist registration statements and activity reports from \$10 per day to not more than \$100 per day. Increases the maximum penalty for failure to file lobbyist registration statements and activity reports from \$100 to \$4,500.
- Defines "conflict of interest" for lobbyists. Requires lobbyists to file with the lobby registration commission a description of the procedure that will be utilized if conflicts arise. Requires the procedure to be incorporated into the lobbyist's contract with clients.
- Requires the lobby registration commission to make available on the Internet all reports, statements, and documents filed with the commission and all manuals, indices, summaries, and other documents the commission is required to compile, publish, or maintain.
- Requires "legislative liaisons" of agencies in the executive branch of state government and of state educational institutions to report certain expenditures annually to the lobby registration commission.
- Provides that individuals who are candidates for election to the general assembly in 2010 may not become a lobbyist or legislative liaison before June 1, 2011. Provides that after December 31, 2011, a legislator must wait 365 days after leaving the general assembly before becoming a lobbyist or legislative liaison.
- Provides that a state elected official may use the title of the office, but may not use the state elected official's name or likeness in an audio, video, or newspaper publication paid for entirely or in part with appropriations made by the general assembly, regardless of the source of the money. Provides that this prohibition does not apply to a communication made by the governor concerning the public health or safety or by a state elected official for a publication that has a "compelling public policy reason" that is approved by the budget committee and the budget agency.
- Provides that elected state officers and candidates for state office may not raise funds during the same period of a long session when legislators are barred from fundraising.
- Removes a requirement that candidates for the general assembly file candidate documents with the circuit court clerk. Requires the circuit court clerk to provide copies of legislative candidacy documents from the election division's or the secretary of state's web site to a person requesting to see these documents.

**Clerk Liability (HEA 1044, P.L. 60-2010)**

*Author: Nancy Michael*

*Sponsor: Connie Lawson*

- Provides that circuit court clerks and the clerk of the Supreme Court are not personally liable for acts or omissions in the performance of the clerks' duties absent gross negligence or intentional disregard of the responsibilities of the office of clerk.
- Specifies that the fact that a clerk is not personally liable does not preclude an action against the clerk's bond based on an error or omission committed by the clerk.

**Access to Handgun License Information (HEA 1068, P.L. 47-2010)**

***Author: Peggy Welch***

***Sponsor: Brent Steele***

- Provides that, for purposes of the law concerning access to public records: (1) information submitted by a person to obtain or renew a license to carry a handgun; (2) information obtained by a federal, state, or local government entity in the course of an investigation concerning a person who applies to obtain or renew a license to carry a handgun; and (3) the name, address, and any other information that may be used to identify a person who holds a license to carry a handgun; is confidential, may not be published, and is not open to public inspection.
- Specifies that: (1) any information concerning an applicant for or a person who holds a license to carry a handgun may be released to a federal, state, or local government entity for law enforcement purposes or to determine the validity of a license to carry a handgun; or (2) general information concerning the issuance of licenses to carry handguns in Indiana may be released to a person conducting journalistic or academic research but only if all personal information that could disclose the identity of any person who holds a license to carry a handgun has been removed from the general information.
- Provides that the period during which an application for the renewal of an existing handgun license may be filed begins 365 days (instead of 180 days) before the date the license expires.

**Unclaimed Property (HEA 1083, P.L. 64-2010)**

***Author: Cherish Pryor***

***Sponsor: Brandt Hershman***

- Reduces from five years to three years the period after which the following property is considered abandoned for purposes of the state's unclaimed property act: (1) A demand, savings, or matured time deposit. (2) Property payable as a result of a demutualization, rehabilitation, or related reorganization of a mutual insurance company. (3) All other property not otherwise specified under the act.
- Makes a technical amendment to one provision of the unclaimed property act to reflect another provision of the unclaimed property act that specifies that the act does not apply to: (1) a business to business credit memorandum; or (2) gift certificates.

**Worker's Compensation (HEA 1116, P.L. 67-2010)**

***Author: Charles Moseley***

***Sponsor: Dennis Kruse***

- Provides that an employer or employer's insurance carrier may not delay the provision of emergency medical care for worker's compensation injuries or occupational disease disablements whenever emergency medical care is

considered necessary in the professional judgment of the attending health care facility physician.

**Soil and Water Conservation Districts (HEA 1119, P.L. 52-2010)**

*Author: Robert Bischoff*

*Sponsor: James Lewis*

- Allows the governing body of a soil and water conservation district to approve payment of certain expenses subject to review and approval at the governing body's next regular meeting.
- Requires the district's fiscal officer to certify payments.

**Abatement of Vacant or Abandoned Structures (HEA 1122, P.L. 68-2010)**

*Author: Gail Riecken*

*Sponsor: Tom Wyss*

- Multiple effective dates.
- Combines two separate Indiana Code provisions concerning the presuit notice required in residential foreclosure proceedings into one section. Repeals one of the provisions being combined.
- Provides that the presuit notice must inform the debtor that if the creditor obtains a foreclosure judgment, the debtor has a right to do the following before a sheriff's sale is conducted: (1) Appeal a finding of abandonment by a court. (2) Redeem the real estate from the judgment. (3) Retain possession of the property, subject to certain conditions.
- Provides that an enforcement authority that has issued an abatement order for a vacant or abandoned structure may under certain conditions file a praecipe for the sale of the property with the clerk of the county after 180 days have elapsed from the date a foreclosure judgment and decree is filed, if the party that is entitled to enforce the judgment has not itself filed a praecipe.

**Disposal of Vacant Lots in Tax Sale Process (HEA 1324, P.L. 98-2010)**

*Author: Phil GiaQuinta*

*Sponsor: Earline Rogers*

- Permits a county to sell a vacant parcel acquired by the county in a tax sale to the owner of a contiguous residential parcel for \$1 if the contiguous parcel is entitled to the standard property tax deduction.
- Allows the county to establish criteria to identify vacant parcels eligible for sale.
- Establishes procedures for conduct of the sale, transfer of the vacant parcel, and consolidation of the vacant parcel with the contiguous parcel.
- Provides that the consolidated parcel is entitled to an exemption from property taxation in the amount of the assessed value of the vacant parcel at the time of consolidation until the earlier of the following: (1) the next transfer of title after the consolidation; or (2) five years after the transfer of the title to the successful applicant.

- Provides that a tax deed for real property sold in a tax sale: (1) does not operate to extinguish an easement recorded before the tax sale, regardless of whether the easement was taxed separately from the real property; and (2) conveys title subject to all easements recorded before the date of the tax sale.

**State and Local Administration (SEA 23, P.L. 110-2010)**

*Author: Luke Kenley*

*Sponsor: David Niezgodski*

- Multiple effective dates.
- Requires the Indiana economic development corporation to: (1) designate an employee in the small business division to serve as a small business ombudsman; and (2) designate an employee to serve as a compliance officer whose primary duties are to determine and report to the corporation whether each person that receives a job creation incentive granted by the corporation, another agency or instrumentality of the state (excluding any political subdivision or other unit of local government) complies with the terms and conditions of the person's incentive agreement.
- Eliminates the requirement that an existing business must employ 35 or more employees to qualify for an EDGE credit. Provides a uniform definition of small business for certain regulatory review programs.
- Provides a new employer tax credit for a corporation or pass through entity that after December 31, 2009, either locates or relocates the operations of a business enterprise in Indiana, incorporates or otherwise first organizes in Indiana, or expands its operation of a business enterprise in Indiana and employs at least 10 new qualified employees.
- Requires the Indiana economic development corporation to approve taxpayers for the credit. Provides that the credit is 10% of the wages paid by the new Indiana business to qualified employees during a 24 month period. Permits a carry forward of the credit for nine years.
- Permits the secretary of family and social services to apply for and administer certain TANF emergency funds. Upon approval of the TANF emergency fund application, permits the commissioner of the department of workforce development to implement a subsidized employment program for unemployed or underemployed individuals. Permits augmentation of the state TANF appropriation to match federal funding for the subsidized employment program.
- Delays changes in the taxable wage base and employer contribution rates for the unemployment compensation system to 2011.
- Provides for an employer contribution rate equal to the sum of the employer's contribution rate plus two percent unless all required contributions and wage reports have been filed within 31 days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessor for periods before and including the computation date have been paid.
- Requires the department of labor to develop guidelines and procedures for investigating questions and complaints concerning employee classification.

Requires the department of labor to do the following: (1) Make a presentation to the pension management oversight commission not later than October 1, 2010, outlining the proposed guidelines and procedures. (2) Make recommendations to the legislative council before November 1, 2010, concerning any legislative changes needed to implement the guidelines and procedures, including a budgetary recommendation for the implementation of the plan and a funding mechanism, to the extent possible. (3) Convert the guidelines and procedures to rules before August 1, 2011.

- Removes the condition that an individual submit at least one application for work in each week for which the individual is claiming benefits. Provides that an otherwise eligible individual may not be denied unemployment benefits or be determined not able, available, and actively seeking work because the individual is responding to a summons for jury service.
- Requires the individual to obtain from the court proof of their jury service and provide it to the department of workforce development, in the manner the department prescribes by rule, proof of the individual's jury service.
- Deletes the statute requiring the department of workforce development to establish an unemployment claims compliance center.
- Provides that, if an employer appeals an initial determination granting benefits to a claimant and the determination is reversed at least in part based on information that the employer failed to provide in response to a department request, the employer's experience account (account) shall be charged 50% of the benefits paid to the employee that the employee was not entitled to receive and for which the employer's experience account may be charged. Provides that if the employee repays the benefits received the employer's account is credited with the amount of the employee's repayment up to 50% of the amount charged to the account.
- Provides that each administrative law judge employed or used by the department of workforce development must be an attorney who is licensed to practice law in Indiana.
- Allows cities, counties, and townships to give preference in the hiring of police and fire department positions to laid off policemen, firefighters, and emergency workers.
- Repeals a provision that permits an employer with a debit reserve ratio to elect once, after December 31, 2009, and before January 1, 2012, to make a voluntary contribution to the fund and receive a credit to the employer's account equal to 250% of the amount of the voluntary contribution.
- Specifies that the IEDC, when developing job creation incentive packages to locate companies in Indiana, shall give weight, in the awarding or approving of job creation incentives, to business entities that locate in a county where individuals have become dislocated workers due to a permanent closure of a plant or facility or a significant reduction in the workforce.
- Provides that the IEDC shall require an applicant for a job creation incentive to be granted by the IEDC after March 31, 2010, to enter into an agreement with the IEDC as a condition of receiving the incentive. Requires the agreement to provide that the IEDC, after a finding that an applicant is employing fewer individuals than the applicant agreed to employ and subject to any confidentiality laws, shall

- hold a hearing to determine if the applicant shall be required to pay back to the state a portion of the incentive granted to the applicant under the agreement. Requires the agreement to provide that the applicant will pay back to the state the incentive that has been received by the applicant if the applicant moves or closes.
- Provides that in the case of an incentive granted by the IEDC that is awarded after March 31, 2010, if the IEDC determines that a recipient of an incentive has not complied with the representations that the recipient made in obtaining the incentive, the IEDC shall seek a refund or arrange other methods of reclaiming the value of the incentive granted by the IEDC from the recipient. Specifies that the amount of the refund or reclaimed part must be in proportion to the degree of default by the recipient as determined by the IEDC.
  - Specifies that the IEDC shall establish a program to ensure that dislocated workers from Indiana are given consideration for jobs created by business entities receiving a job creation incentive from the state or an instrumentality of the state.
  - Requires the IEDC to condition job creation incentives awarded or approved after March 31, 2010, on compliance with the program.
  - Allows the IEDC to waive or modify a recapture provision made with a person to whom the IEDC has awarded an incentive if the IEDC determines that the recipient has failed to meet a condition for receiving the incentive because of circumstances beyond the recipient's control.
  - Requires the IEDC's economic incentives and compliance report to include an annual report on the effectiveness of and compliance with all incentives granted by the IEDC.
  - Establishes an interim study committee to study the feasibility and value of indexing unemployment benefits and the unemployment insurance taxable wage base.

**Display of Political Signs (SEA 64, P.L. 5 -2010)**

*Author: Mike Delph*

*Sponsor: Craig Fry*

- Prohibits a homeowners association from adopting or enforcing certain restrictive covenants or homeowners association rules concerning the display of political signs.

**Conservancy District Elections (SEA 110, P.L. 16-2010)**

*Author: Connie Lawson*

*Sponsor: Bob Bischoff*

- Multiple effective dates.
- Provides that if there is only one nominee for election to a conservancy district (district) board of directors (board) to represent an area of the district, the nominee is considered elected.
- Provides that if there is only one nominee for election to the board for each area for which a director is to be elected, the election is not required to be held and

- each of the board members is considered to have been elected as if the election had been held.
- Authorizes the board to enter into leases of land to providers of commercial mobile services that allow for the construction, use, and maintenance of a tower that is used for telecommunications purposes.
  - For districts located in certain counties, if in the opinion of the secretary of the district a freehold has been divided into multiple freeholds to increase the number of voters, the secretary may exclude the freeholders of the multiple freeholds from the list of freeholders eligible to vote.
  - Provides that the determination of the secretary may be challenged by petitioning the circuit court that created the district. For other districts, provides that only one vote may be cast per freehold in an election for members of the board.

### **Petitioners and Remonstrators for Local Debt (SEA 401, P.L. 41-2010)**

*Author: Carlin Yoder*

*Sponsor: Terry Goodin*

- Permits an owner of a mobile home or a manufactured home that is used as a principal place of residence and that is assessed as personal property within a political subdivision to participate in the petition and remonstrance process for the issuance of debt or execution of a lease on a controlled project by the political subdivision.
- Requires the governing body of a school corporation that adopts a resolution to conduct a referendum for a tax levy to certify the resolution to both the department of local government finance and the county fiscal body of each county in which the school corporation is located. (Current law does not require the governing body to certify the resolution to the department of local government finance.)

## **Community and Economic Development**

### **Local Port Authorities (HEA 1076, P.L. 49-2010)**

*Author: Russ Stilwell*

*Sponsor: James Lewis*

- Eliminates the requirement that a local port authority contract be in the name of the political subdivision creating the authority.
- Specifies that a local port authority is an instrumentality of the state and may exercise certain powers independent of any political subdivision.
- Authorizes local port authorities to borrow money. Relocates bonding authority for local port authorities from the list of general powers to a separate section.
- Retains the requirement that a local port authority obtain the approval of the governing body that created the authority before entering contracts concerning royalties from natural or mineral resources of land owned by the authority and relocates the requirement from the list of general powers to a separate section.

**French Lick Resort Matters (HEA 1276, P.L. 96-2010)**

*Author: Sandra Blanton*

*Sponsor: Vaneta Becker*

- Multiple effective dates.
- Updates the definition of "riverboat" to conform to recent improvements to the French Lick casino.
- Reduces the admissions tax imposed at the French Lick riverboat from \$4 to \$3.
- Eliminates admissions tax distributions to the Orange County development commission and the West Baden Springs historic hotel preservation and maintenance fund (fund).
- Adjusts the amounts paid to other recipients of the admissions tax collected at French Lick.
- Provides that riverboat wagering taxes previously transferred to the Orange County Convention and Visitors Bureau must be transferred to the Orange County Development Commission and the Indiana Economic Development Corporation.
- Permits the operating agent to submit claims for the reimbursement of certain expenditures to maintain the West Baden Springs hotel property.
- Requires the department of natural resources to pay the claims. Annually appropriates interest accruing to the fund for the payment of the claims.

**Redevelopment Commissions and Military Base Reuse Authorities (SEA 249, P.L. 104-2010)**

*Author: James Merritt*

*Sponsor: Dale Grubb*

- Effective upon passage.
- Adds expenditures that benefit local public improvements or structures as allowable expenditures by a redevelopment authority and for which a redevelopment authority may reimburse any other governmental body if the improvements or structures serve or benefit the authority's allocation area.
- Removes the restriction on using the redevelopment authority's allocation fund for operating expenses of the redevelopment authority. Provides that expenses may be incurred by a military base reuse authority, any other department of the unit, or a department of another governmental entity for local public improvements or structures that are in the allocation area or directly serving or benefiting the allocation area, including expenses for the operation and maintenance of these local public improvements or structures if the reuse authority determines those operation and maintenance expenses are necessary or desirable to carry out the purposes of the authority.
- Provides that the allocation fund may not otherwise be used for operating expenses of the reuse authority.
- Provides that a military reuse authority that owns or acquires a public utility to provide water service or sewage disposal service has certain powers and duties of

a municipal board and municipal legislative body with respect to the operation of a municipal water utility or municipal sewage works.

## Courts

### **Uniform Enforcement of Foreign Judgments Acts (HEA 1062, P.L. 63-2010)**

*Author: Trent VanHaften*

*Sponsor: Richard Bray*

- Enacts the uniform enforcement of foreign judgments act to permit the enforcement of a judgment of another state upon filing the judgment in the office of the clerk of the court.

### **Marion County Courts (HEA 1154, P.L. 71-2010)**

*Author: Cherish Pryor*

*Sponsor: Jean Breaux*

- Multiple effective dates.
- Provides that a commissioner appointed in the Marion County courts has all of the powers and duties prescribed for a magistrate.
- Allows a Marion County commissioner who exercises the powers and duties of a magistrate to serve as a senior judge.
- Specifies that if a commissioner appointed in Marion County is appointed as a magistrate, the salary of that magistrate shall be paid by the state in the same amount as other magistrates are paid.
- Provides for the allocation of appointments of commissioners in Marion County.
- Provides that in addition to any judgment otherwise entered in Marion County for a traffic violation constituting an infraction, an additional judgment amount of not more than \$35 may be entered for the traffic violation.
- Specifies that this additional judgment amount for infraction judgments imposed in Marion County for traffic violations shall be transferred to a dedicated county fund.
- Provides that money in the dedicated county fund: (1) does not revert to the county or state general fund; and (2) may be used, after appropriation by the county fiscal body, only to pay compensation of commissioners and pay costs of the county's guardian ad litem program.

### **Interlocal Agreements Concerning Courts (HEA 1186, P.L. 55-2010)**

*Author: Tom Saunders*

*Sponsor: Richard Bray*

- Allows a city or town that has not established a city or town court or an ordinance violations bureau to enter into an interlocal agreement with a city, town, or other municipal corporation that has established: (1) a city or town court; or (2) an ordinance violations bureau; to hear and dispose of ordinance violations that

would otherwise come under the jurisdiction of a city or town court or an ordinance violations bureau established by the city or town.

**Courts (HEA 1271, P.L. 108-2010)**

*Author: Eric Koch*

*Sponsor: Richard Bray*

- Provides that certain courts may establish a problem solving court for alternative treatment and rehabilitation.
- Requires the board of directors of the judicial center to adopt rules for the certification and operation of problem solving courts. Repeals certain provisions regarding drug courts and reentry courts.

**Uniform Acts Concerning Civil Procedure (HEA 1350, P.L. 57-2010)**

*Author: Ralph Foley*

*Sponsor: Brent Steele*

- Enacts the Uniform Interstate Depositions and Discovery Act.
- Allows litigants to present a clerk of the court located in the state where discoverable materials are sought with a subpoena issued by a court in the trial state.
- Provides that once the clerk receives the foreign subpoena, the clerk shall issue a subpoena for service upon the person or entity on which the original subpoena is directed.
- Specifies that the terms of the issued subpoena must incorporate the same terms as the original subpoena and contain the contact information for all counsel of record and any party not represented by counsel. Enacts the Uniform Unsworn Foreign Declarations Act.
- Affirms the use in state law proceedings of unsworn declarations made by declarants who are physically outside the boundaries of the United States when making the declaration.
- Provides that if an unsworn declaration is made subject to penalties for perjury and contains the information in the model form provided in the act, the statement may be used as an equivalent of a sworn declaration. Excludes use of unsworn declarations for depositions, oaths of office, oaths related to self-proved wills, declarations recorded under certain real estate statutes, and oaths required to be given before specified officials other than a notary.

**Magistrates (SEA 36, P.L. 3-2010)**

*Author: Richard Bray*

*Sponsor: Linda Lawson*

- Provides that magistrates who meet certain other criteria may be certified as special judges by the judicial nominating commission. (Current law provides for the certification of judges and justices.)

**Various Criminal Law Matters (SEA 81, P.L. 100-2010)**

***Author: Jim Arnold***

***Sponsor: Matt Pierce***

- Multiple effective dates.
- Establishes the 14 member criminal law and sentencing policy study committee (study committee) to evaluate criminal laws and sentencing policies.
- Repeals laws establishing the sentencing policy study committee. Adds topics for the study committee to study and make recommendations about in the 2010 interim.
- Provides that the driver's license of a person convicted of resisting law enforcement while using a vehicle and: (1) exceeding the speed limit by at least 20 miles per hour; (2) committing criminal recklessness; or (3) engaging in reckless driving with a vehicle; may be suspended for one year for a first offense and two years for a second or subsequent offense.
- Provides that if a person receives a sentence that includes: (1) a term of incarceration; and (2) a driver's license suspension; the driver's license suspension begins on the date the person is released from incarceration and not on the date the person is convicted.
- Specifies in which court a petition for a hardship license must be filed. Requires the court to notify the bureau of motor vehicles of the person's conviction, and specifies that the convicted person has the burden of applying for a new or renewal license and establishing that the one year or two year period has elapsed.
- Enhances the penalty and prohibits a person from receiving a driver's license if a person has a second unrelated conviction for knowingly or intentionally operating a motor vehicle and has never received a valid driver's license.

**Attorney General Matters (SEA 394, P.L. 40-2010)**

***Author: Richard Bray***

***Sponsor: Linda Lawson***

- Authorizes the attorney general to intervene in a declaratory judgment action in which a statute, ordinance, or franchise is alleged to be unconstitutional.
- Provides that a court must notify the attorney general if the constitutionality of a state statute is called into question, and permits the attorney general to intervene in the case to present evidence and arguments concerning the constitutionality of the statute.
- Permits the attorney general to intervene in a case in which a claim or defense is based on a statute or executive order administered by a state officer or agency.
- Authorizes the attorney general to file an amicus curiae brief without the leave of the parties or the court.

**Court Fees (SEA 399, P.L. 106-2010)**

*Author: Mike Young*

*Sponsor: Vanessa Summers*

- Multiple effective dates.
- Provides the following caps on the amount that a person who has committed a moving violation that is a Class C infraction may be required to pay: (1) Court costs plus a judgment of not more than \$35.50 if the person admits the violation before the person's court date. (2) Court costs plus a judgment of not more than \$35.50 if the person admits the violation on the day of the person's court date. (3) Court costs plus a judgment of not more than \$35.50, if the person contests the violation in court, is found to have committed the violation, and has not contested and been found to have committed another moving violation in the previous five years. (4) Court costs plus a judgment of not more than \$250.50 if the person has contested and been found to have committed one moving violation in the previous five years. (5) Court costs plus a judgment of not more than \$500 if the person has contested and been found to have committed two or more moving violations in the previous five years.
- Specifies that court costs include fees. Specifies that the maximum amounts do not include any amount that a person may be required to pay to attend a defensive driving school program.

## **Environmental**

**Oil, Gas and Coal Bed Methane Property (HEA 1265, P.L. 78-2010)**

*Author: Kreg Battles*

*Sponsor: Lindel Hume*

- Effective upon passage.
- Defines "coal bed methane" and expands the definition of "commercially minable coal resource". Prohibits coal bed methane extraction before July 1, 2012, unless: (1) the owner of the coal from which the coal bed methane is extracted consents; or (2) the coal bed methane is extracted from a well that is operated under a permit issued by the department of natural resources.
- Requires the natural resources study committee to study certain oil, gas, and coal bed methane issues.

# Finance

## **Property Tax Collections (HEA 1059, P.L. 89-2010)**

*Author: Shelli VanDenburgh*

*Sponsor: Luke Kenley*

- Provides that provisional property tax bills are required rather than optional if the county auditor fails to deliver the abstract for an assessment date to the county treasurer before April 1 of the year following that assessment date.
- Provides that the department of local government finance (DLGF) may waive the requirement that a provisional bill must be used if the DLGF determines that certain conditions have been met.
- Provides that the first installment of a provisional bill is equal to 50% of the tax liability that was payable in the same year as the assessment date for the property for which the provisional bill is issued, subject to any adjustments to the tax liability authorized by the DLGF and approved by the county treasurer. Provides that the second installment is either the amount specified in a reconciling statement or, if a reconciling statement is not sent until after the second installment is due, an amount equal to 50% of the tax liability that was payable in the same year as the assessment date for the property for which the provisional bill is issued, subject to any adjustments authorized by the DLGF and approved by the county treasurer.
- Directs the DLGF to authorize the types of adjustments to tax liability permitted on provisional statements and to notify county treasurers of that authorization. Provides that certain information is not required to be included on a provisional bill, but must be included on the reconciling statement.
- Deletes certain information from the informational notice that must accompany a provisional statement.
- Requires the county treasurer to: (1) place in a separate account in the county general fund penalties collected as a result of late payments on provisional and reconciling statements; (2) use the account only to defray the costs of mailing or transmission of provisional and reconciling statements; and (3) deposit excess money in the account in the county reassessment fund.
- Entitles a taxing unit to interest generated by the county on property tax collections if the county treasurer fails to meet the deadline for compliance with a request for advance distribution of the collections.

## **State and Local Administration (HEA 1086, P.L. 113-2010)**

*Author: Peggy Welch*

*Sponsor: Brandt Hershman*

- Multiple effective dates.
- Provides contract terms for certain SNG contracts.
- Provides for electronic signatures on public contracts.

- Transfers regulation of boxing, wrestling, and martial arts to the gaming commission. Reduces the tax from 5% to 3% of the gross receipts received from providing a professional public boxing, sparring, or unarmed combat match or exhibition for viewing in Indiana on a closed circuit telecast, pay per view telecast, or subscription television. Limits the tax to \$50,000 for each event.
- Provides that interest earned on the athletic commission fund be deposited in the state general fund. Provides that revenue from the tax must be deposited in the state general fund. Permits the budget agency to augment appropriations from the athletic commission fund to the gaming commission to regulate boxing, sparring, unarmed combat, and any other form of mixed martial arts. Provides that the gaming commission may waive the tax on complimentary admissions for actual attendance to a match or exhibition. Deletes the exemption for showings at a private residence.
- Makes changes in property tax assessment procedures, petition and remonstrance and referenda procedures, calculation of maximum permissible levies, and deductions, including changes in the method of calculating the solar heating and cooling equipment deduction and establishing a deduction for personal property used in a certified technology park.
  - Provides that a taxing unit may adopt a resolution specifying that a controlled project that would otherwise be subject to the petition/remonstrance process will be subject to the referendum process. (Property tax levies used to pay debt or lease/rentals approved in a referendum are exempt from the property tax circuit breaker caps.)
  - Provides that beginning with property taxes payable in 2011, the Department of Local Government Finance may adjust a civil taxing unit's maximum levy if the unit used cash balances rather than its entire levy authority in the preceding year. (This provision could encourage taxing units to use cash balances and temporarily reduce levies without losing any levy authority).
  - Provides that a civil taxing unit may petition the Department of Local Government Finance (DLGF) in order to phase in its initial levy for a Fire Protection Territory. A civil taxing unit may petition the DLGF for an increase in its maximum levy to meet its obligations to the Fire Protection Territory.
- Requires notice of a decertification of a technology park to be sent to the department of local government and the department of state revenue.
- Requires payment of all delinquent taxes before platting land, consolidating parcels, or removing property from a tax sale list.
- Provides for the department of local government finance to review and make recommendations concerning the language of proposed public questions on controlled projects.
- Requires the board of tax review to provide dispute resolution and appeal filing guidance to property taxpayers.
- Makes changes in the administration of libraries.
- Makes changes in the gross retail and use tax related to implementation of the Streamlined Sales and Use Tax Agreement.

- Exempts sales to a city or town for a municipal golf course from sales taxation and certain aircraft brought into Indiana from use tax.
- Indicates that references in state law to the Internal Revenue Code refer to the version in effect on January 1, 2010.
- Restricts state net operating loss carrybacks. Changes certain electronic tax reporting procedures.
- Changes the deadline for adopting a local income tax.
- Permits a city or town to establish a cumulative capital improvement fund for any purpose. (Currently, CCI Funds can only be used for certain purposes unless the funds are first transferred to the unit's general fund).
- Makes changes to the eligibility criteria for admittance to the Indiana veterans' home.
- Eliminates and reorganizes certain boards and commissions.
- Indicates that interest on delinquent assessments is calculated under the statute under which interest on delinquent property taxes is computed.
- Extends the period in which certain public bids may be received.
- Requires fiscal information on a proposed local reorganization to be publicly available and specifies when officials will be elected after a local reorganization.
- Changes from January 2 to January 1 the date certain local annexations, election boundary changes, and reorganizations take effect.
- Permits a third class city to reduce the number of members on its legislative body. Requires weed assessments and delinquent utility bill lien statements to be sent by certified mail, return receipt requested, or its equivalent.
- Corrects a reference to a budget deadline. Provides for an additional community revitalization enhancement district (CRED) in Delaware County.
- Makes changes to procedures related to economic improvement districts (EID).
  - Provides that establishment of an EID requires a petition signed by (1) a majority of the real property owners in the proposed district and (2) the owners of at least 50% of the non-exempt assessed value in the proposed district. (Current law requires 2/3 of the owners of the non-exempt assessed value in the proposed district).
  - Provides that if there is only one property owner within the EID, the board members of the EID would include the property owner plus not more than two other members who do not own property in the EID.
  - Clarifies that assessments charged in an EID are considered property taxes for purposes of federal tax deductions, but the assessments are special tax assessments for all other purposes including for the property tax caps.
- Requires sellers of prepaid wireless services to remit fees to the department of state revenue. (This provision requires retailers to collect \$.25 per transaction on the sale of prepaid wireless phones and air cards. Funds collected will be used at the direction of the Wireless Enhanced 911 Advisory Board.)
- Repeals provisions related to boards and commissions that are reorganized.
- Grants additional time to certain property owners to file for a property tax exemption.

- Restricts previously enacted law governing late exemption applications to nonprofit entities.
- Establishes an interim study committee on economic development and provides for the preparation of certain corrective legislation. Requires the Commission on State Tax and Financing Policy to study the allocation and distribution of local option income taxes during the 2010 interim.
- Specifies the ballot language for the submission of the proposed amendment to the Constitution of the State of Indiana concerning circuit breakers and other property tax matters.
- Provides a procedure to correct an error in the certified Indianapolis Public Schools capital project fund levy rate for 2010.

**Mortgages and Public Deposits (HEA 1336, P.L. 115-2010)**

***Author: Jeb Bardon***

***Sponsor: Brandt Hershman***

- Multiple effective dates.
- Establishes a voluntary five star mortgage program for creditors (including mortgage brokers) that offer qualifying mortgages to Indiana customers after June 30, 2010. Requires the department of financial institutions (department) to adopt guidelines to implement the program.
- Provides that to qualify as a five star mortgage lender, a creditor must provide to the department a certification attesting that the creditor meets specified criteria.
- Provides that to qualify as a five star mortgage, a mortgage: (1) must require: (A) a down payment of at least 10% of the purchase price of the dwelling, in the case of a purchase money transaction; or (B) that the customer have equity of at least 10% in the dwelling, in the case of a refinancing; (2) must have a fixed rate of interest; (3) must provide for an escrow account for the payment of taxes and insurance, if the creditor regularly provides for such escrow accounts in the creditor's ordinary course of business; (4) may not have a term that exceeds 30 years; and (5) may not include a prepayment penalty or fee.
- Requires a five star mortgage lender to provide a written statement to any Indiana customer who: (1) applies for a five star mortgage offered by the lender; and (2) does not qualify for the mortgage based on the lender's underwriting standards.
- Provides that the statement must set forth the reasons why the customer did not qualify for a five star mortgage. Allows a creditor that qualifies as a five star mortgage lender to include that fact in marketing materials or solicitations directed at Indiana customers, subject to the department's guidelines.
- Requires the department to publish on the department's Internet web site a list of all creditors that have a current and accurate certification or renewal certification on file with the department.
- Requires the department to provide written notice to a creditor that the creditor does not qualify for the program whenever a creditor: (1) holds itself out as a five star mortgage lender when it does not qualify to participate in the program; or (2) fails to comply with any program requirement. Requires the department to remove such a creditor from the list of five star mortgage lenders on the department's

- Internet web site and to provide, on the same Internet web page on which the list is published, a link to the notice provided to the creditor.
- Provides that the authority of the boards of trustees of the public employees' retirement fund (PERF) and of the state teachers' retirement fund (TRF) to invest in pooled funds includes the authority to invest in pools consisting in part or entirely of five star mortgages.
  - Allows the PERF board to maintain alternative investment programs within: (1) the PERF annuity savings account; and (2) the legislators' defined contribution plan; that invest in pooled funds consisting in part or entirely of five star mortgages, or that otherwise invest in five star mortgages. Allows the TRF board to maintain alternative investment programs within the TRF annuity savings account that invest in pooled funds consisting in part or entirely of five star mortgages, or that otherwise invest in five star mortgages.
  - Removes the discretion of a school corporation to determine whether a local board of finance meeting is needed on an annual basis.
  - Permits local government investment officers to invest in municipal securities issued by an Indiana local governmental entity, a quasi-governmental entity related to the state, a unit of government, municipal corporation, or special taxing district in Indiana so long as the issuer has not defaulted on an obligation within the 20 years preceding the date of the purchase.
  - Permits counties and political subdivisions to invest public funds in certificates of deposit under certain conditions.
  - Removes the prohibition against investing more than 50% of a unit's depository funds in money market mutual funds. Replaces the requirement that money be invested in transaction accounts and certificates of deposit with the depository quoting the highest interest rate with the authority to invest in a depository offering any one of the top three interest rates so long as the reason for choosing the alternate depository is noted in the memorandum of quotes.
  - Changes the appointments to the board for depositories (board) to require one appointment by the speaker of the House of Representatives, one appointment by the president pro tempore of the senate, and two appointments (instead of four) by the governor. Requires one of the appointees by the governor to be a chief executive officer or a chief financial officer of a depository that is a state chartered credit union in Indiana. Requires that each of the four appointed members be a chief executive officer or a chief financial officer of a depository and that each appointment represent a different segment of the financial institutions industry. Provides that if the depository is not domiciled in Indiana, the appointee must be the most senior corporate officer of the depository with management or operational responsibility or the person designated to manage public funds for the depository that is located in Indiana.
  - Specifies that the term of an appointed member is four years.
  - Permits the appointing authority to reappoint a member if the individual meets the requirements at the time of reappointment.
  - Provides that a simple majority of the board members voting is required to approve an action by the board, instead of a unanimous vote.
  - Requires the board to hold a public meeting at least once each calendar quarter.

- Requires that deliberations concerning a particular financial institution be held in executive session by the board and provides that records related to these matters are confidential.
- Requires the board to prepare a general summary semiannual report and present it to the budget committee.
- Changes the requirement for meeting notices from ten days to two days.
- Allows the board to fix the assessment rate at the times the board determines to be necessary instead of twice each year.
- Exempts certain certificates of deposit issued by a federally insured bank or savings and loan association from the assessment calculation.
- Provides that the board may consider capital adequacy, liquidity, and asset quality in addition to any study by actuaries in establishing any change in the reserve for losses.
- Increases from \$1,500,000 to \$300,000,000 the amount of anticipatory warrants the board may issue to pay immediate claims when the assets in the public deposit insurance fund (PDIF) are not sufficient to pay claims.
- Permits the board to accept as collateral bonds or other obligations that the board could not invest in if the board determines the obligations are acceptable collateral. Specifies United States treasury securities, federal agency securities, and irrevocable letters of credit issued by a Federal Home Loan Bank are acceptable collateral.
- Permits the board to determine whether a depository may withdraw collateral when the amount of public funds on deposit is at least 10% less than the market value of securities pledged as collateral.
- Allows the board to determine the amount and type of substituted securities a depository may provide to insure the insurance fund's solvency, consistent with the depository's pro rata share of total deposit accounts of public funds based on an average of the depository's total public deposits.
- Exempts federally insured deposits from the assessment calculation.
- Provides an exemption from assessment for a public depository if it pledges acceptable collateral equal to the public deposits it holds and the collateral level was continuously maintained for the 12 months immediately preceding an assessment.
- Provides that if the PDIF balance reaches zero, all depositories must pledge collateral equal to 100% of the depository's public fund holdings.
- Provides that the market value of the substituted securities as of the date of delivery may be less than, but may not exceed, the amount determined by the board.
- Provides that a joint investment fund may be invested or reinvested only in investments that are permitted for political subdivisions.
- Provides that a financial institution may not have public funds on deposit if it issues a credit card as a card issuer and the institution is not in substantial compliance with the federal Credit Card Accountability Responsibility and Disclosure Act of 2009 and requires the department of financial institutions to

investigate complaints and determine whether a financial institution is in substantial compliance with the act.

- Eliminates a report by the public employees' retirement fund to the board for depositories' secretary-investment manager and an interest calculation concerning the coverage of local police and firefighter pension funds.
- Changes the distribution from the pension distribution fund to local units into a distribution to the pension relief fund from which distributions are made to local units.

### **Circuit Breakers and Other Property Tax Matters (HJR 1, P.L. 116-2010)**

*Author: William Crawford*

*Sponsor: Luke Kenley*

- Requires, for property taxes first due and payable in 2012 and thereafter, the general assembly to limit a taxpayer's property tax liability as follows: (1) A taxpayer's property tax liability on homestead property may not exceed 1% of the gross assessed value of the homestead property. (2) A taxpayer's property tax liability on other residential property may not exceed 2% of the gross assessed value of the other residential property. (3) A taxpayer's property tax liability on agricultural land may not exceed 2% of the gross assessed value of the property that is the basis for the determination of the agricultural land. (4) A taxpayer's property tax liability on other real property may not exceed 3% of the gross assessed value of the other real property. (5) A taxpayer's property tax liability on personal property may not exceed 3% of the gross assessed value of the taxpayer's personal property that is the basis for the determination of property taxes within a particular taxing district.
- Specifies that property taxes imposed after being approved by the voters in a referendum shall not be considered for purposes of calculating the limits to property tax liability under these provisions.
- Provides that in the case of a county for which the general assembly determines in 2008 that limits to property tax liability are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units and school corporations in the county by at least 20%, the general assembly may provide that property taxes imposed in the county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating the limits to property tax.

### **Property Taxes (SEA 223, P.L. 81-2010)**

*Author: Travis Holdman*

*Sponsor: Cherish Pryor*

- Provides that the form prescribed by the department of local government finance (DLGF) to claim the mortgage deduction and the instructions for the form must both include a statement specifying that a person is not entitled to the deduction unless the person has a balance on their mortgage or contract indebtedness

- (including any home equity line of credit) that is the basis for the deduction. Requires the statement to specify the penalties for perjury.
- Requires the DLGF to develop a notice that must be displayed in the office of each county auditor concerning the application for the mortgage deduction. Indicates that mortgages, contracts, memoranda, and home equity lines of credit must be recorded to be eligible for a mortgage deduction.

**Assessment of Agricultural Land (SEA 396, P.L. 112-2010)**

*Author: Luke Kenley*

*Sponsor: Dale Grubb*

- Effective January 1, 2010 (retroactive).
- Requires the department of local government finance to use an adjusted six year average that eliminates the highest value determined for the six year period when making the annual calculation of the base rate for the assessment of agricultural land.

## Pensions

**Purchase of Out-of-State Service Credit (HEA 1008, P.L. 88-2010)**

*Author: Ed Soliday*

*Sponsor: Ed Charbonneau*

- Allows a member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) to purchase at full actuarial cost service earned out of state in a position for which the 1977 fund would give credit if the service were earned in Indiana.

**Police Officers' and Firefighters' 1977 Pension and Disability Fund (HEA 1050, P.L. 62-2010)**

*Author: Suzanne Crouch*

*Sponsor: Vaneta Becker*

*and*

**Return of 1977 Fund Member Contributions (SEA 172, P.L. 23-2010)**

*Author: Vaneta Becker*

*Sponsor: David Niezgodski*

*(HEA 1050, P.L. 62-2010)*

- July 1, 2009 (retroactive).
- Allows a member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) to designate one or more beneficiaries to receive the 1977 fund member's contributions plus interest if the 1977 fund member dies without receiving retirement or disability benefits and without a spouse, child, or parent entitled to receive survivor benefits.

- Provides that, if the member does not designate a beneficiary, the member's contributions and accumulated interest shall be refunded to the member's estate.
- Specifies that for purposes of receiving a survivor benefit a parent is wholly dependent on a member of the 1977 fund if the 1977 fund member claimed the parent as a dependent on the federal income tax return filed by the 1977 fund member in the year before the year in which the 1977 fund member died.

**(SEA 172, P.L. 23-2010)**

- Multiple effective dates.
- Allows a member of the 1977 police officers' and firefighters' pension and disability fund to designate one or more beneficiaries to receive the member's contributions plus interest if the member dies without receiving retirement or disability benefits and without a spouse, child, or parent entitled to receive survivor benefits.
- Provides that, if the member does not designate a beneficiary, the member's contributions and accumulated interest shall be refunded to the member's estate. Specifies that, for purposes of receiving a survivor benefit, a parent is wholly dependent on a member if the member claimed the parent as a dependent on the member's federal income tax return for the year before the year in which the member died.

**1977 Fund Purchase of Service Credit (HEA 1127, P.L. 70-2010)**

*Author: Terry Goodin*

*Sponsor: James Lewis*

- Allows a member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) to purchase at full actuarial cost prior service in certain public retirement funds.

**PERF and TRF Matters (HEA 1205, P.L. 107-2010)**

*Author: David Niezgodski*

*Sponsor: Luke Kenley*

- Multiple effective dates.
- Requires the board of trustees of the public employees' retirement fund (PERF) and the board of trustees of the Indiana state teachers' retirement fund (TRF) to appoint and fix the compensation of a common director for PERF and TRF.
- Requires that PERF and TRF each pay 50% of the director's compensation.
- Requires the PERF and TRF boards to cooperate to the extent practicable and feasible in administering and investing the assets of the funds and in hiring investment managers, investment advisors, and other service providers.
- Provides for a thirteenth check for PERF and TRF members, survivors, and beneficiaries. Provides for a thirteenth check for employee beneficiaries of the state police 1987 benefit system who retired or were disabled after June 30, 1987,

and before July 2, 2008, and were entitled to receive a monthly benefit as of June 1, 2010.

**Various PERF and TRF Matters (SEA 30, P.L. 99-2010)**

***Author: James Buck***

***Sponsor: Phil Boots***

- Multiple effective dates.
- Provides that certain members of the public employees' retirement fund (PERF) and the Indiana teachers' retirement fund (TRF) may withdraw the member's annuity savings account (ASA) if the member has separated employment and is not employed in a covered position for 30 days. (Current law provides that such members must have separated employment and not be in a covered position for 90 days.)
- Removes the requirement that certain members must be either a member of: (1) PERF after December 31, 2008; or (2) TRF after June 30, 2009; in order to request a distribution from the member's ASA. Authorizes the PERF and TRF to adopt rules to allow a member that designates more than one beneficiary to allocate benefit shares in percentage increments.
- Provides that, before July 1, 2012, an active member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) who is eligible to receive an unreduced retirement benefit may elect to receive at retirement a partial lump sum distribution equal to the member's monthly benefit times the member's years of creditable service in exchange for an actuarially reduced monthly benefit.
- Provides that an annual cost of living adjustment for monthly retirement benefits received by a member or survivor of the 1977 fund may not be used to decrease the member's monthly benefit.
- Requires the PERF board of trustees, one time before January 1, 2015, and every five years thereafter, to evaluate statewide physical and mental examination standards used by the 1977 fund.
- Eliminates references to the treasurer of state's duties concerning the following pension funds administered by the public employees' retirement fund (PERF): (1) Legislators' retirement system. (2) Judges' retirement system. (3) Prosecuting attorneys retirement fund. (4) 1977 police officers' and firefighters' retirement and disability fund. (In 2009 the treasurer of state's role as treasurer of PERF was eliminated and those duties were assigned to the PERF board and executive director.)
- Provides that a PERF or TRF member may petition the board of trustees of the member's fund (board) to correct an error in a determination of the member's: (1) creditable service; or (2) benefit; at any time.
- Provides that if the board does not find an error in the determination and the member petitioned the board within six years after the determination, the member may appeal the board's decision under the administrative orders and procedures law.
- Updates language concerning the TRF board's distribution of TRF's investment earnings.

# Public Safety

## Various Provisions Concerning Firearms (HEA 1065, P.L. 90-2010)

*Author: Bob Bischoff*

*Sponsor: Johnny Nugent*

- Prohibits a person, including an individual, a corporation, and a governmental entity, from adopting or enforcing a policy or rule that prohibits or has the effect of prohibiting an employee of the person, including a contract employee, from legally possessing a firearm or ammunition that is locked in the trunk of the employee's vehicle, kept in the glove compartment of the employee's locked vehicle, or stored out of sight in the employee's locked vehicle while the vehicle is in or on the person's property, unless the firearm or ammunition requires a certain federal license to possess.
- Exempts possession of a firearm or ammunition: (1) on school property, on property used by a school for a school function, or on a school bus; (2) on certain child care and shelter facility property; (3) on penal facility property; (4) in violation of federal law; (5) on property belonging to an approved postsecondary educational institution; (6) on the property of a domestic violence shelter; (7) at a person's residence; (8) on the property of a person that is subject to the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards and licensed by the United States Nuclear Regulatory Commission; (9) on property owned by a public utility that generates and transmits electric power or a department of public utilities; and (10) in an employee's personal vehicle if the employee is a direct support professional who uses the employee's personal vehicle while transporting an individual with developmental disabilities.
- Provides that a court does not have jurisdiction over an action that: (1) is brought against an employer who is in compliance with the prohibition against adoption or enforcement of a policy or rule that prohibits the possession of a firearm in a locked vehicle; and (2) is brought to recover for any injury or damage resulting from the employer's compliance. Authorizes a person harmed by a violation to bring a civil action for damages, costs, attorney's fees, and injunctive relief to remedy a violation.
- Prohibits the state, a political subdivision, or any other person from prohibiting or restricting the lawful possession, transfer, sale, transportation, storage, display, or use of firearms or ammunition during a declared disaster emergency, energy emergency, or local disaster emergency, subject to exceptions that apply to the prohibition against adoption or enforcement of a policy or rule that prohibits the possession of a firearm in a locked vehicle.
- Repeals provisions that allow certain political subdivisions to adopt emergency ordinances to regulate firearms if a local disaster emergency has been declared.

**Juvenile, Education and Law Enforcement Matters (HEA 1193, P.L. 74-2010)**

*Author: Linda Lawson*

*Sponsor: Richard Bray*

- Creates the law enforcement, school policing, and youth work group (work group) to be staffed and administered by the criminal justice institute. Requires the work group to study and make specific recommendations concerning law enforcement, school policing, and youth.
- Requires each school corporation to annually submit a report to the department of education (department) concerning: (1) student arrests; (2) the use of school corporation police departments and security guards; and (3) whether the school corporation has an agreement with a law enforcement agency concerning arresting students on school corporation property.
- Requires the department of education to summarize the school corporations' reports and to submit the summary to the legislative council, the board for the coordination of programs serving vulnerable individuals, the education roundtable, and the criminal justice institute.
- Requires the department of education to post the reports on its web site.

**Public Safety Officer Layoff and Reinstatement (HEA 1194, P.L. 56-2010)**

*Author: Dennis Tyler*

*Sponsor: James Buck*

- Provides that the reinstatement rights of a laid off member of a city police or fire department, or a laid off member of a sheriff's department, terminates five years (instead of three years) after the day on which the member's layoff begins.

**Motorcycle Handlebar Height (SEA 31, P.L. 2-2010)**

*Author: Phil Boots*

*Sponsor: Teri Austin*

- Provides that motorcycle handlebars may not rise higher than the shoulders of the driver when the driver is seated in the driver's seat. (Current law provides that the handlebars may not rise more than 15 inches above the driver's seat.)

**Suspension or Terminations of EMS Personnel (SEA 87, P.L. 13-2010)**

*Author: Karen Tallian*

*Sponsor: Charles Moseley*

- Provides that a medical director of a police or fire department or a volunteer fire department must provide a written explanation to an individual who is a member of the department, and as a condition of employment or appointment, holds a

- certification to provide emergency medical services, if the medical director refuses or fails to supervise or attest to the competency of the individual to provide emergency medical services or suspends the individual from performing emergency medical services.
- Provides that, before a department takes any employment or appointment related action against the individual, the individual is entitled to a hearing and appeal of the medical director's refusal, failure, or suspension.
  - Requires the board or commission hearing the appeal to consult with an independent medical expert who must have certain qualifications in order to determine whether the individual followed the applicable emergency medical services protocol, if the medical director's action that is the subject of the appeal is based on a health care decision made by the individual in performing emergency medical services.

**Emergency Management (SEA 128, P.L. 19-2010)**

*Author: Tom Wyss*

*Sponsor: Vern Tincher*

- Includes fire protection districts and fire protection territories as units for purposes of participation in the statewide emergency mutual aid program under certain circumstances.
- Provides that a county, municipality, township, fire protection district, or fire protection territory that participates in the program and that receives disaster assistance from another participating unit shall reimburse the assisting unit for certain expenses to the extent the expenses are not covered by reimbursements.

**Transportation of Radioactive Materials (SEA 186, P.L. 26-2010)**

*Author: Tom Wyss*

*Sponsor: Vern Tincher*

- Adds violations concerning the transportation of radioactive waste to the list of violations for which a truck and trailer may be stopped, inspected, and cited at a weigh station. Allows certain members of: (1) local emergency planning committees; and (2) the board of firefighting personnel standards and education; to appoint designees. Amends IC 10-14-8 concerning the transportation of high level radioactive waste to apply to both high and low level radioactive waste.
- Requires a person that transports high or low level radioactive waste to obtain a permit from the department of homeland security.
- Provides that the state police department may detain, seize, or impound a vehicle that illegally transports radioactive waste.
- Imposes civil penalties for the illegal transportation of radioactive waste. Deposits civil penalties in the nuclear response fund.

Specifies who may inspect motor vehicles for illegal transportation of radioactive waste. Provides that the illegal transportation of radioactive waste is a Class B infraction.

**Public Safety Director (SEA 271, P.L. 33-2010)**

*Author: Randy Head*

*Sponsor: Win Moses*

- Provides that the city executive of a third class city may appoint a public safety director to: (1) serve as the chief administrative officer of the police department and fire department; and (2) oversee the operations of the police department and the fire department.

**Local Law Enforcement Issues (SEA 281, P.L. 34-2010)**

*Author: Jim Arnold*

*Sponsor: Kreg Battles*

- Specifies that motor vehicles, trailers, semitrailers, and pole trailers (excluding truck-tractors, truck-tractor semitrailer-semitrailer combinations equipped with a B-train assembly, vehicles manufactured before 1956, motorcycles, and other motor-driven cycles) must have two working tail lamps to be operated on a highway.
- Allows money in the firearms training fund to be used to purchase body armor.
- Makes technical corrections: (1) requiring a city, town, or county to provide an active member of the police department with body armor for the torso; (2) requiring a city, town, or county to replace armor according to the replacement period recommended by the manufacturer of the armor; (3) providing that a unit cumulative capital improvement fund may be used to purchase body armor for active members of a police department; and (4) Add a cross reference in provision relating to a county law enforcement continuing education program..

## **Transportation**

**Commuter Transportation District Board Membership (HEA 1069, P.L. 48-2010)**

*Author: Mara Candelaria Reardon*

*Sponsor: Luke Kenley*

- Effective upon passage.
- Adds three members to the board of trustees of a commuter transportation district.

**Highway Matters (HEA 1125, P.L. 69-2010)**

*Author: Craig Fry*

*Sponsor: Edward Charbonneau*

- Multiple effective dates.
- Adds three intersections to the part of State Road 331 in St. Joseph County from the U.S. Highway 20 bypass to State Road 23 that is a limited access facility, with certain conditions.

- Requires a municipality to send written notice of the hearing on an annexation ordinance to property owners whose property is located outside the proposed annexed area but is adjacent to a right-of-way of a road or street that forms one of the boundaries of the area.

**Public-Private Agreements (SEA 382, P.L. 85-2010)**

*Author: Earline Rogers*

*Sponsor: Scott Pelath*

- Effective upon passage.
- For purposes of statutes concerning approval of the location of a toll way or the designation of a state highway as a toll way, allows the approval or designation of the Illiana Expressway or a project that is located in a metropolitan planning area and connects Indiana with Kentucky (current law prohibits such an approval or designation without legislative authorization).
- Makes the following changes in the statutes governing public-private agreements by the Indiana finance authority (IFA) or the department of transportation (INDOT): Authorizes public-private agreements for: (1) a project concerning the Illiana Expressway; and (2) a project that is located in a metropolitan planning area and connects Indiana with Kentucky; that would permit an operator to impose tolls for the operation of motor vehicles (current law prohibits such agreements without legislative authorization).
- Specifies that the common construction wage statute applies to a project for the Illiana Expressway. Requires the preparation of an economic impact study before a request for proposals (RFP) is issued.
- Requires a public hearing concerning the study on the proposed project. After the preliminary selection of an operator, requires a public hearing on the preliminary selection and the public-private agreement. Requires various postings and notices before the hearing.
- Provides that a public-private agreement must: (1) require the completion of all environmental analyses required by state and federal law; and (2) provide for an expedited method for resolving disputes among or between IFA or INDOT, other parties to the agreement, and units of local government that contain part of a project.
- Provides that the eminent domain laws in effect as of January 1, 2010, apply to the use of eminent domain for a project by the IFA or INDOT and to the rights of property owners affected by such a use of eminent domain. In the INDOT statute, provides that the public-private agreement must specify that ownership of the project is to be in the name of the state (this requirement is already in the IFA statute).
- Requires INDOT to: (1) conduct and complete, not later than July 1, 2011, a comprehensive study of a route that provides direct high speed rail passenger service to both South Bend and Fort Wayne; and (2) report to the joint study committee on mass transit and transportation alternatives on certain matters related to high speed rail passenger service.

- Provides that INDOT may not submit an application for the Chicago to Cleveland high speed passenger rail service corridor until the study is completed. Provides that the bill applies to public-private agreements entered into after March 14, 2010. Makes conforming changes.

**Natural and Cultural Resources and Civil War (SEA 400, P.L. 86-2010)**

*Author: Carlin Yoder*

*Sponsor: Terri Austin*

- Defines "all-terrain vehicle" (ATV) and "recreational off-highway vehicle" (ROV). Amends the definition of "off-road vehicle" for purposes of regulation of land recreation to specifically include ATVs and ROVs. Prohibits: (1) a county, city, or town from adopting an ordinance; and (2) the department of natural resources from adopting a rule, regulation, or guideline; that imposes on off-road vehicles a dry weight limitation of less than 2,000 pounds.
- Cross-references the new ATV definition for purposes of excluding ATVs from requirements concerning the repurchase of farm or industrial machinery.
- Provides that a governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the operation of an off-road vehicle by a non-governmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to gross negligence, willful or wanton misconduct, or intentional misconduct, with certain exceptions.
- Requires a collector snowmobile to be registered with the department of natural resources in order to be operated on public property.
- Adds a 3, 4, or 6 wheeled construction related motor vehicle that is: (1) capable of cross-country travel without the benefit of a road and on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain; and (2) used primarily for construction related purposes; to the definition of "farm wagon" for purposes of the operation of the motor vehicle on highways.

## Utilities

**Yield When Approaching Certain Vehicles (SEA 93, P.L. 14-2010)**

*Author: Phil Boots*

*Sponsor: Teri Austin*

- Provides that the failure to use due caution when approaching a stationary utility service vehicle that is being used to perform utility services or a stationary road, street, or highway maintenance vehicle is a Class A infraction that may also result in the loss of driving privileges. (Current law provides that the failure to use due caution which will result in sanctions pertains to the failure to use due caution when approaching a stationary recovery vehicle or a stationary highway maintenance vehicle.)

# Criminal Code Changes

## **Inmate Possession of a Cellular Device Prohibited (HEA 1100, P.L. 51-2010)**

*Author: Terry Goodin*

*Sponsor: James Lewis*

- Makes it a Class A misdemeanor for a person incarcerated in a county jail to possess a cellular telephone or other wireless or cellular communications device.

## **Involuntary Manslaughter and Pregnancy (SEA 71, P.L. 7-2010)**

*Author: Allen Paul*

*Sponsor: Phil Pflum*

- Provides that a person commits involuntary manslaughter if the person causes the death of a fetus while committing or attempting to commit operating while intoxicated.