

INDIANA BUILDERS ASSOCIATION  
Legislative and Regulatory Report #6  
February 8, 2008

Rick Wajda- (800) 377-6334- [rick@buildindiana.org](mailto:rick@buildindiana.org)  
Gretchen White (800) 377-6334 – [gretchen@buildindiana.org](mailto:gretchen@buildindiana.org)  
Roger Stephens- (800) 377-6334- [rogers@bagi.com](mailto:rogers@bagi.com)

House of Representatives- (800) 382-9842  
Indiana Senate- (800) 382-9467

## **HIGHLIGHTS**

### **MODEL HOME ACT HEARING SET FOR TUESDAY**

The Model Home Act, House Bill 1164, sponsored by Senator Kenley (R-Noblesville) and Senator Lewis (D-Charlestown), will be heard in the Senate Tax and Fiscal Policy Committee next Tuesday. The bill provides a property tax exemption on the structure of three models or speculative homes for builders. IBA encourages its members to contact State Senators and ask them to vote YES on HB 1164.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=1164>

### **LEAD LEGISLATION TO BE HEARD ON MONDAY**

Senator Beverly Gard's (R-Greenfield) childhood lead poisoning prevention bill is scheduled to be heard in the House Public Health Committee Monday morning. IBA has been working with Senator Gard to address issues with the bill and will be raising concerns at the hearing on Monday.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=143>

### **ARCHEOLOGY LEGISLATION TO BE HEARD ON TUESDAY**

House Bill 1129 which deals with artifacts, burial grounds also shortens the time provided to the Department of Natural Resources for responding to calls of a potential site once it is unearthed will likely be heard next Tuesday. IBA has been working with the bill's author Matt Pierce (D-Bloomington) and are now comfortable with the language in the bill.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&session=1&request=getBill&docno=1129>

### **REFERENDUMS TO GO BACK INTO PROPERTY TAX BILL**

The Senate Tax and Fiscal Policy Committee listened to hours of public testimony this week on the House property tax reform legislation, House Bill 1001, and the committee intends to debate changes and vote on the bill February 19<sup>th</sup>. The Chairman, Senator Luke Kenley (R-Noblesville), has said he will recommend changes to the bill which include restoring the referendum piece of the Governor's property tax reform package for major building projects.

#### PROPERTY TAX CAP BEING CONSIDERED

The House Ways and Means Committee discussed Senate Resolution 1 which would amend the state's constitution to cap homeowner tax bills at 1 percent of their home's assessed value, with 2-percent limits on rental property and 3-percent caps on business property. This resolution is part of Governor Mitch Daniels property tax reform plan and passed the Senate.

#### STATE CONSTRUCTION REGISTRY UPDATE

The bill to create a statewide construction registry may be heard in the House Technology Committee next week. IBA has asked the bill's sponsor Scott Reske (D-Pendleton) not to move the bill and allow IBA Mechanic's Lien Task Force to further study the issue with interested parties over the summer.

#### SPEAKER PAT BAUER TALKS ABOUT IMMIGRATION BILL

House Speaker Pat Bauer (D-South Bend) told reporters this week he is considering changes to Senate Bill 335, the immigration bill, to make the bill "less destructive." Senate Bill 335, among other things, would punish businesses that knowingly hire illegal immigrants by revoking their license to do business in the state if they are found in violation three times within 10 years. IBA continues to express some concerns with the legislation and believes the issue should be addressed at the federal level.

#### NEWS

##### BUSH TO SIGN STIMULUS PACKAGE NEXT WEEK

The Congress has approved a stimulus plan which would provide rebates of \$600 for individuals and \$1,200 for couples to most taxpayers in hopes of reviving the economy. Individuals making up to \$75,000 a year and couples earning up to \$150,000 would get the full rebate, with those making more than that getting smaller checks. People who paid no income taxes but earned at least \$3,000 –including through Social Security or veterans' disability benefits –would get a \$300 rebate. The plan also addresses business tax write-offs by allowing bonus depreciation more generous expensing rules to spur investment. In effort to boost the housing market, the plan allows Fannie Mae and Freddie Mac to buy loans up to \$729,750. President Bush has praised legislators for their work on this package and plans to sign it into law next week.

##### CONSTRUCTION SPENDING FALLS

Spending on all U.S. construction projects fell 1.1 percent last month, reports the Commerce Department. The overall market was hurt as construction on private residential projects continued to fall. Residential construction spending fell 2.8 percent in December after falling 3 percent the month before. The overall monthly drop was larger than the 0.5-percent decline expected by economists. Overall construction spending was down 2.3 percent from the same month a year ago.

##### MORTGAGE LOAN ACTIVITY SEES INCREASE DUE TO REFINANCING

The pace of mortgage loan activity rose another 7.5 percent last week from the prior week, according to the Mortgage Bankers Association. The increase, mostly due to refinancings, was in response to the Federal Reserve's cutting of key rates by three-

quarters of a percent. Refinancings accounted for 73 percent of all applications, up from 60 percent the previous week. Interest rates rose, however, with 30-year loans averaging 5.6 percent, up from 5.49 percent. And rates on 15-year mortgages averaged 5.04 percent, up from 4.96 percent.

## **KEY PIECES OF LEGISLATION**

### **SB 334 Severe Weather Warning Sirens (Waltz R-Columbus)**

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=334>

Requires each county to prepare and submit to the department of homeland security (department) a severe weather warning siren coverage report not later than June 1, 2010. Provides that the report must: (1) identify all existing and planned sirens in the county; (2) identify all areas in the county that are not within the range of an existing or a planned siren; and (3) include a recommendation as to the county's need for any additional sirens. Requires the department to do the following not later than December 1, 2010: (1) review each county's report; (2) prepare a comprehensive map of Indiana that shows the location of each existing and planned siren identified by the counties; and (3) for each county that the department determines has one or more areas not covered by a siren, issue an order requiring the county to submit a siren coverage plan and adopt a siren coverage fee ordinance. Requires each county that is issued an order by the department to: (1) adopt and submit to the department a siren coverage plan not later than May 1, 2011; and (2) adopt a siren coverage fee ordinance not later than June 1, 2011. Provides that the siren coverage fee is to be imposed on a builder that proposes a development in an area of the county not covered by a siren. Provides that the fee is to be used to defray the capital costs incurred to acquire and install any sirens needed to provide coverage for areas in the county not covered by a siren. Requires the county to: (1) apportion the total cost of a new siren between a planned development and existing dwelling units and buildings that will be covered by the siren; and (2) subtract the amount apportioned to existing dwelling units and buildings from the fee imposed on a builder. Provides that a siren coverage fee ordinance takes effect on January 1, 2012. Requires each county to establish a severe weather warning siren fund into which the siren coverage fees are to be deposited. Requires a separate account to be established within the fund for each area identified in the county's siren coverage plan as requiring one or more sirens. Provides that money in the account is continuously appropriated to the appropriate infrastructure agency in the area for which the account is established for use by the agency in acquiring and installing sirens. Requires the department to adopt certain rules not later than January 1, 2010.

*IBA is working with the House sponsors of the bill to change the funding mechanism.*

### **SB 335 Illegal Alien Matters (Delph R-Carmel)**

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=335>

Requires the superintendent of the state police department (superintendent) to: (1) negotiate terms of a memorandum of understanding (memorandum) concerning a pilot project for the enforcement of federal immigration and customs laws; and (2) designate appropriate law enforcement officers to be trained under the memorandum. Requires: (1)

the superintendent and governor, unless otherwise required by the applicable federal agency, to sign the memorandum on behalf of the state; and (2) the state police department to apply for federal funding, as available, for the costs associated with the training. Provides that a law enforcement officer certified as trained may enforce the federal immigration and customs laws. Prohibits an employer from knowingly hiring, after September 30, 2009, an unauthorized alien. Exempts certain utilities, hospitals, nonprofit organizations, and certain emergency medical transporters from this provision. Subject to availability of funds, authorizes the attorney general to: (1) investigate a complaint that an employer knowingly employed an unauthorized alien; (2) verify the work authorization of the alleged unauthorized alien with the federal government; (3) notify United States Immigration and Customs Enforcement, local law enforcement agencies, and the appropriate prosecuting attorney under certain conditions; and (4) maintain certain records of violation orders. Authorizes a prosecuting attorney to file a civil action against an employer for knowingly hiring an unauthorized alien in the county where the alien is employed. Authorizes a court to: (1) hold a hearing on an expedited basis; (2) if an employer knowingly employs an unauthorized alien, order the employer to terminate the employment of unauthorized aliens, order the employer to file a sworn affidavit, and place the employer on probation for three years; and (3) order agencies to suspend all licenses held by the employer for the operation of the business location until the affidavit is filed, if the employer fails to file a sworn affidavit. Provides that a court may: (1) suspend the licenses of an employer for a second violation not later than 10 years after the date of the initial violation; and (2) revoke all licenses of the employer for a third violation not later than 10 years after the initial violation. Provides that a trier of fact may consider only the federal government's verification or status information in determining whether an individual is an unauthorized alien. Prohibits a prosecuting attorney from filing an action against an employer that verifies the employment authorization of an employed individual through the pilot program. Establishes an affirmative defense if the employer complied in good faith with the federal employment verification requirements. Makes it a Class B misdemeanor to file a complaint, knowing the complaint is false or frivolous, with the attorney general or a prosecuting attorney. Provides that the suspension or revocation of a license does not relieve an employer from an obligation to withhold, collect, or pay income tax on wages. Prohibits a governmental body from enacting an ordinance, resolution, rule, or policy that prohibits or limits another governmental body from sending, receiving, maintaining, or exchanging information on the citizenship or immigration status of an individual. Allows a person to bring an action to compel a governmental body to comply with the prohibition. Prohibits a state agency or political subdivision from entering into or renewing a public contract for services with a contractor if the state agency or political subdivision knows that the contractor employs or contracts with unauthorized aliens. Provides that: (1) a state agency or political subdivision may terminate a public contract for services if the contractor providing the services employs or contracts with unauthorized aliens unless the state or political subdivision determines that terminating the contract would be detrimental to the public interest or public property; and (2) if a public contract for services is terminated, a contractor is liable for actual damages. Allows a contractor of a public contract for services to terminate a contract with a subcontractor if the subcontractor employs or contracts with unauthorized aliens. Makes

it a: (1) Class A misdemeanor to transport or move; and (2) Class A misdemeanor to conceal, harbor, or shield from detection; an alien, for purposes of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law. Exempts from these criminal provisions, certain religious, health care, and legal services providers, and spouses from the criminal provisions. Makes these offenses a Class D felony (Class C felony for subsequent offenses): (1) for a subsequent offense; or (2) if the offense involves more than five aliens. Requires the department of workforce development to verify the lawful presence of certain individuals to determine the individual's eligibility for unemployment benefits through the SAVE program.

*IBA continues to express some concerns with the legislation and believes the issue should be addressed at the federal level.*

### **HB 1269 Employee Classification (Niezgodski D-South Bend)**

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=1269>

Provides that an individual performing services for a contractor is considered to be an employee of the contractor, with certain exceptions. Provides for investigations of the employment relationship between an individual and a contractor by the department of labor, procedures to be followed for investigations, and for various civil penalties to be assessed by the department of labor for: (1) the failure to properly classify the individual; and (2) retaliation against certain persons. Provides that a contractor or an agent of the contractor that intentionally fails to properly classify an individual as an employee commits a Class C misdemeanor, and that the second or subsequent intentional violation within five years is a Class D felony.

*IBA is opposed to this bill and working to defeat it in the Senate.*

### **HB 1280 Energy Efficient Buildings (Pierce D-Bloomington)**

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=1280>

Requires a building or structure constructed, reconstructed, repaired, altered, or retrofitted under certain public works contracts entered into after December 31, 2008, to be designed with the goal of achieving the silver rating under the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system, the Green Globes Two Globes level, or an equivalent standard under an equivalent rating system that is accredited by the American National Standards Institute. Provides that the certification requirement does not apply to a public works contract entered into by a school corporation. Provides that for state agency purchases, there is a 5% price preference for certain office equipment that is compliant with the United States Environmental Protection Agency Energy Star ratings. Allows the Indiana economic development corporation to adopt rules allowing the corporation to give priority to economic development projects that meet or surpass the standards of the leadership in energy and environmental design ratings systems developed by the U.S. Green Building Council or the Green Building Initiative.

*IBA has concerns with the bill and suggesting alternatives to the bill's sponsor in the Senate.*

## **NAHB NEWS**

### **NAHB TO LAUNCH GREEN STANDARD NEXT WEEK**

The waiting is almost over for the first glimpse at the National Green Building Standard which will be unveiled next Thursday at the International Builders' Show in Orlando, Florida.

### **HOUSING AND THE ECONOMY WILL IMPROVE LATER THIS YEAR**

NAHB shows firming of overall economic activity and the beginnings of housing recovery during the second half of this year — with help from the Federal Reserve, Congress and the Administration. Our forecast also assumes that oil prices will recede over the course of the year and that the economy will not be shocked by unforeseen events, such as a global stock market crash. Our baseline (most probable) economic forecast shows GDP growth of less than 1% in the first half of this year, and a mild recession certainly is possible. Our projected GDP pattern generates only meager growth of payroll employment and involves further increases in the unemployment rate during the next few quarters. But we expect GDP growth to rise to about 2.8% by late in the year, strengthening the job market and paving the way for solid economic performance in 2009. We do not expect core inflation to be a serious problem at any time during the 2008-2009 period. Our housing forecast shows substantial reductions in home sales, housing starts and residential fixed investment for 2008 as a whole, but we're looking for stabilization of all three measures (in that order) during the year. 2009 stacks up as a solid recovery year, and there will be plenty of room for growth of the housing sector in future years as well.