

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #2
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The 115th General Assembly reconvened Tuesday and a number of House and Senate committees have been meeting to debate introduced legislation. IBA is reading through the bills as they are released to the public and will continue to post additional bills in the newsletter. IBA encourages you to become involved and contact us with concerns.

Ways to Get Involved

- Read the weekly legislative report (during session, bi-weekly out of session) to stay informed on legislative action
- Get to know your legislators and meet with them regularly at home and by visiting them at the Statehouse
- Contact your legislators when asked to encourage them to support or oppose particular legislation.
- Attend the Legislative Reception being held in conjunction with the Indiana Midwest Builders Convention on January 22nd from 6:00-7:30 p.m. in the Indiana Convention Center
- Register with voterVoice, IBA's grassroots lobbying tool to directly communicate with your elected officials. Visit <http://www.buildindiana.org/VoterVoice.htm>

HIGHLIGHTS

MODEL HOME ACT INTRODUCED; ASSIGNED TO COMMITTEE

House Bill 1164, property tax deduction for model residences, has been assigned to the House Ways and Means Committee. IBA recently met with Ways and Means Committee member Representative Sheila Klinker to discuss the bill. IBA is working to secure a hearing for the bill in the House Ways and Means Committee. IBA strongly supports HB 1164 and encourages members to contact their State Representative and ask them to support HB 1164

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

LICENSING OF NEW HOME SALESPEOPLE LEGISLATION FILED

Senator Connie Lawson (R-Danville) has filed Senate Bill 275 which requires a person be licensed in Indiana as a real estate broker or salesperson if they conduct an open house in a home listed for sale or conduct an open house or show a model home in a neighborhood or subdivision in which similar houses are or will be listed for sale in Indiana. IBA is opposed to this legislation and is working to defeat the bill.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=275>

MECHANIC'S LIENS LEGISLATION TO BE HEARD IN COMMITTEE MONDAY
Senator David Ford's (R-Hartford City) legislation (SB 257) to create a State Construction Registry for the filing of mechanic liens will be heard in committee Senate Economic Development and Technology Committee Monday morning. IBA will testify in support of this legislation, which was developed from an IBA Task Force.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=257>

LEAD BILL TO BE HEARD IN COMMITTEE NEXT WEDNESDAY

Senator Beverly Gard's (R-Greenfield) filed legislation (SB 143) on childhood lead poisoning prevention will be heard in Senate Health and Provider Services committee on Wednesday. IBA recently met with Senator Gard to voice concerns and are waiting to review her proposed amendments and or changes to the legislation.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&session=1&request=getBill&doctype=SB&docno=0143>

ANNEXATION LEGISLATION FILED

Senator Jeff Drozda (R-Sheridan) has filed Senate Bill 114 that would prevent forced annexations. The legislation also provides that a waiver or release of the right of remonstrance against annexation is not a covenant that runs with the land or binding on the successors in title property and would expire three years after the date the waiver or release is executed. IBA has a meeting scheduled with Senator Drozda to discuss our concerns.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=114>

LEGISLATIVE

HOUSE REPUBLICANS' AGENDA FOCUSES ON PROPERTY TAX REFORM

The House Republican caucus recently announced their support for most of Governor Daniels property tax plan with a few additions. House Republicans are also calling for \$700 million in new homestead credits to give homeowners help by May; include state spending caps, and would like to see the elimination of residential property taxes in the next few years.

SENATE COMMITTEE PASSES BILL REQUIRING VOTER APPROVAL FOR PROJECTS

The Senate Tax and Fiscal Policy Committee approved Senate Bill 18 which would require some capital projects, including libraries and new school buildings, to be approved by a voter referendum. Under the bill, building projects that cost at least \$7 million, or total a half-percent of the assessed valuation in a governmental district, would have to win voters' approval. Governor Daniels plan calls for a referendum on projects that cost at least \$10 million, or that total 1 percent of the assessed valuation in a district. Senators Kenley, Weatherwax, Alting, Dillion, Ford, Hershman, Landske, and Meeks

voted in support of the bill. Senators Skinner, Broden, Mrvan, and Sipes voted against the bill. IBA staff will be watching this bill very carefully.

BILL TO ELIMINATE TOWNSHIP ASSESSORS ADVANCES

Senate Bill 16, a bill to eliminate township assessors, passed out of the Senate Local Government and Elections Committee 5-4. The bill would reduce the current 1,008 township assessors and trustee-assessors to 92 elected county assessors. IBA is supportive of the bill.

SENATE COMMITTEE DISCUSSES A CONSTITUTIONAL AMENDMENT TO REPEAL PROPERTY TAXES

The Senate Rules and Legislative Procedure Committee met for three hours Tuesday to discuss Senate Joint Resolution 8 which would eliminate property taxes for homeowners, businesses and farms through a constitutional amendment. Authors Senator Mike Young (R-Indianapolis) and Senator Brent Waltz (R-Greenwood) expressed interest in changing SJR 8 to only include residential property taxes which will be discussed next week. Senator Mike Young has mentioned the possibility of a 3% real estate transfer tax to pay for the elimination of residential property taxes and IBA has a long-standing policy of being opposed to any implementation of real estate transfer taxes.

SENATE COMMITTEE VOTES FOR FULL STATE FUNDING OF LOCAL EDUCATION

The Senate Appropriations Committee voted 9-1 in favor of a constitutional amendment that would have the state pick up full cost of local schools' general funds. Only Senator Tim Skinner (D-Terre Haute) voted against the measure.

COMMITTEE APPROVES MEASURE TO MOVE FUNDING TO THE STATE

The Senate Appropriations Committee voted 8-1 for Senate Bill 1, which would move the school general fund and cost of child welfare to the state. This idea was included in several property tax proposals; including the Governor and other legislators last fall.

LEGISLATION OF INTEREST

HB 1001 Property Tax Relief (Crawford, D-Indianapolis)

<http://www.in.gov/apps/lssa/session/billwatch/billinfo?year=2008&session=1&request=getBill&docno=1001>

Property tax relief. Replaces elected county assessors with county assessors appointed by the county fiscal body. Eliminates township assessors. Increases the circuit breaker credit for homesteads and certain rental property. Provides an additional 35% supplemental standard deduction for homesteads. Provides an additional homestead credit for 2008. Eliminates state reimbursed homestead credits and property tax replacement credits in 2009. Eliminates: (1) school tuition support levies; (2) school transportation fund levies; (3) county medical assistance to wards fund levies; (4) family and children's fund levies; (5) children's psychiatric residential treatment services fund levies; (6) children with special health care needs county fund levies; (7) the state forestry fund levy; (8) the state fair fund levy; and (9) the department of local government finance data base management levy. Changes the formula for determining the maximum permissible growth in certain

levies and eliminates the authority of a county to restrict review of levies, tax rates, and budgets by a county board of tax and capital projects review. Requires a referendum on bond issues and lease agreements payable from property taxes or local income taxes and that cost at least 1% of a political subdivision's total net assessed value or \$10,000,000. Permits a referendum to increase a levy in excess of the amount approved by the county board of tax and capital projects review. Replaces the authority of a county to impose an annual levy growth tax rate, a public safety tax rate, and a property tax replacement tax rate with a single rate not to exceed 1%. Increases the gross retail and use tax to 7%. Establishes the transportation study committee. Makes other changes. Makes appropriations.

The House Ways and Means Committee met in Fort Wayne and South Bend this week for public testimony on the bill.

HB 1038 Time Zone Referendum (Battles D-Vincennes)

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2008&request=getBill&docno=1038>

Time zone referendum. Requires two public questions to be placed on the 2008 general election ballot asking voters: (1) whether all Indiana should be located in the same time zone; and (2) if all Indiana could be located in the same time zone, whether it should be located in the Central Time Zone or the Eastern Time Zone.

HB 1080 Homeowner Associations (Grubb D-Covington)

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2008&request=getBill&docno=1080>

Applies the following to a homeowners association (association) established after June 30, 2008: (1) Requires an association to maintain a current roster of all members of the association (members). (2) Requires an association to prepare an annual budget that must be approved by at least 40% of the members. (3) Requires the board of directors of an association (board) to address an item of business if more than 50% of the members petition the board to address the item. (4) Prohibits a board from entering into certain contracts without the approval of the members. (5) Provides that the governing documents of an association must include grievance resolution procedures that provide for the final and binding arbitration of disputes. (6) Provides that the governing documents of an association must allow the termination of the association if at least 90% of the members agree to the termination. (7) Specifies that an unpaid regular annual assessment imposed by a homeowners association on a member is enforceable as a lien on real property owned by the member and all other unpaid assessments are not enforceable as a lien on real property owned by a member. (8) Prohibits an association from suspending the voting rights of a member for nonpayment of annual assessments unless the assessments are delinquent for more than one year. (9) Provides certain defenses to a member if the association brings a civil action against the member involving an act in furtherance of the member's right of petition or free speech. Allows an association established before July 1, 2008, to elect to be governed by these provisions.

HB 1091 Growth and Development Study Committee (Dvorak D-South Bend)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=1091>

Growth and development study committee. Establishes a two year growth and development interim study committee. Directs the committee to examine incentives for growth and development and to study the impact of growth and development on taxes, transportation funding, energy policy, and the environment.

HB 1129 Archeology (Pierce D-Bloomington)

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

Redefines "artifact", and changes the date used in determining whether an object or feature is an artifact. Redefines "burial ground" to include certain historic sites. Redefines "plan" to include a plan for excavation of ground related to construction. Exempts qualified professional archeologists who conduct phase 1 archeological surveys from certain archeological restrictions. Establishes criminal penalties for certain actions that disturb human remains. Requires the department of natural resources (department) to take action on archeology and development plans within 60 days. Requires a person disturbing ground to use reasonable care and diligence to determine if the ground that may be disturbed is within 100 feet of a burial ground. Requires a person who disturbs buried human remains or artifacts to cease disturbing the remains or artifacts and the surrounding area within 100 feet, and makes it a Class A infraction to fail to do so. Includes excavating or covering over the ground a prohibited activity within 100 feet of the limits of a burial ground. Establishes certain requirements for development plans and archeological plans. Applies certain notice requirements to a person who disturbs burial grounds. Requires the department to respond within ten business days after receiving notice of a discovered artifact or burial object. Makes reports concerning the location of historical or archeological sites confidential under some circumstances. Allows certain persons to accompany a conservation officer to investigate a violation of historic preservation and archeology law. Establishes a fund to assist private homeowners who accidentally discover an artifact, a burial object, or human remains and need assistance to comply with an approved archeological or development plan. Allows a court to order restitution for certain costs related to the violation of historic preservation and archeology law. Makes it a Class D felony to possess looted property and a Class C felony if the cost of carrying out an archeological investigation on the site that was damaged to obtain the looted property is more than \$100,000. Provides that a disinterment under a plan approved by the department is exempt from other disinterment procedures. Repeals and relocates the definition of "conservation officer". Makes conforming changes. Makes an appropriation.

SB 9 Real Estate Disclosure Forms (Steele R-Bedford)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=9>

Real estate disclosure forms. Repeals the law that requires an owner of residential real estate to: (1) complete and sign a real estate disclosure form; and (2) submit the form to a prospective buyer; before an offer for the sale of the residential real estate is accepted.

SB 13 Standardized Public School Building Plans (Hershman R-Monticello)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=13>

Standardized public school building plans. Requires the department of education, in cooperation with the building law compliance officer of the department of homeland security, to develop and update standard plans and specifications for the construction of a school building, an athletic facility, or a building relating to the administration of a school corporation. Requires the department to make these plans available to school corporations. Requires a school corporation to acquire standard plans before building a facility and determine whether to use the standard plans. Provides that a school corporation may use nonstandard plans only if the governing body adopts a resolution finding that standard plans do not serve the needs of the school corporation and the community and stating the reasons standard plans do not meet the needs of the school corporation and the community. Requires the county board of tax and capital projects review, the school property tax control board, and the department of local government finance to approve the use of nonstandard plans. Provides that a contract for professional services relating to construction of a facility must provide that any completed plans developed under the contract become the joint property of: (1) the person providing the professional services; (2) the school corporation; and (3) the state; and may be used by the state and any school corporation without payment to the person providing the professional services.

SB 26 Smoke Detectors in Rental Properties (Jackman R-Milroy)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=26>

Smoke detectors in rental properties. Makes it a Class B infraction if a landlord fails to: (1) properly install a smoke detector at the time a tenant moves in; or (2) repair an inoperative smoke detector within seven days of receiving notice of the need for repair. Increases the penalty to a Class A infraction for a repeat violator. Makes the offense a Class D felony if a fire occurs on the rental premises causing bodily injury or loss of life and the injury or loss of life could have been avoided by an operable smoke detector. Makes it a Class D felony for a tenant to knowingly or intentionally fail to replace smoke detector batteries or report a defective or inoperative smoke detector to the landlord under certain circumstances. Permits a fire department to inspect a private dwelling upon the request of the owner or primary lessee who resides in the dwelling.

SB 40 Permits for Shoreline Activities (Meeks R-LaGrange)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=40>

Permits for shoreline activities. Allows the natural resources commission to grant certain permits with an expiration period of more than two years. Allows a determination or judgment of a dispute among persons with competing riparian interests to be enforced in a civil proceeding. Provides that if: (1) a temporary structure has been placed in a public freshwater lake under a permit or an exemption pursuant to riparian rights arising from the ownership of real property; and (2) the ownership in fee simple of the real property is transferred; the person to whom the ownership of the real property is transferred, to

maintain the temporary structure in its location, must obtain a permit or meet the requirements for an exemption according to the permit requirements or exemption requirements in effect when ownership of the real property is transferred to the person.

The Senate Natural Resources Committee approved this legislation 8-1. Committee member Senator Ryan Mishler (R-Bremen) and Indiana Department of Natural Resources have some concerns with the bill and the author, Senator Bob Meeks (R-LaGrange), will offer 2nd reading amendments. IBA was in the audience during committee and will continue to monitor the legislation very closely.

SB 45 Great Lakes Compact (Gard R-Greenfield)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=45>

Great Lakes Compact. Implements the Great Lakes_St. Lawrence River Basin Water Resources Compact.

Senate Energy and Environmental Affairs Committee approved Senate Bill 45, the Great Lakes Compact bill earlier this week. The compact is aimed to protect the Great Lakes and largely prohibit diverting water from the lakes and rivers linking them, which hold nearly 20 percent of the world's supply of surface fresh water.

SB 89 Regulation of Loan Brokers (Lawson R-Danville)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=89>

Regulation of loan brokers. Specifies that evidence of compliance with the licensing and registration requirements for loan brokers, originators, and principal managers may include a national criminal history background check by the Federal Bureau of Investigation (FBI). Specifies that the securities commissioner (commissioner) shall require each: (1) equitable owner of a loan brokerage business; and (2) applicant for registration as an originator or a principal manager; to submit fingerprints for a national criminal history background check by the FBI. Prohibits the commissioner from releasing the results of a national criminal history background check to a private entity. Allows the commissioner to designate a multistate automated licensing system and repository (system) as the sole entity responsible for processing applications for: (1) licenses for loan brokers; and (2) certificates of registration for originators and principal managers. Allows the commissioner to check the qualifications and background of each: (1) equitable owner of a loan brokerage business; and (2) applicant for registration as an originator or a principal manager; by accessing the system. Specifies that a loan broker is subject to the state statute requiring disclosure of a breach of the security of any records: (1) maintained by the broker; and (2) containing the personal information of a borrower or prospective borrower. Prohibits loan brokers, originators, and principal managers from disposing of unencrypted, unredacted personal information with respect to borrowers or prospective borrowers without first taking certain actions to render the personal information illegible or unusable.

SB 285 Building Standards (Breux D-Indianapolis)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=285>

Building standards. Requires a public works contract that is for the construction of a public building or structure and is entered into after December 31, 2008, to require that the building or structure must meet at least the silver rating under the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system or an equivalent rating system, such as a Two Globes rating system under the Green Building Initiative's Green Globes rating system. Requires a public works contract that is for the reconstruction, repair, alteration, or retrofitting of a public building or structure and is entered into after December 31, 2008, to require that the building or structure must meet at least the standards for existing buildings under the LEED rating system or an equivalent rating system. Provides that for state agency purchases, there is a 5% price preference for any electronic office equipment, including computers, monitors, printers, scanners, fax machines, and copiers, that are compliant with the United States Environmental Protection Agency Energy Star ratings. Allows a county fiscal body to adopt an ordinance providing a deduction from the assessed value of a newly constructed building or a rehabilitated building that is certified to meet the LEED rating system or an equivalent rating system. Requires the ordinance to specify the amount of the deduction. 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 LEED rating system or the rating system of the Green Building Initiative.

This is the same legislation filed last year in the House and IBA opposed. IBA has been working with last year's author, Representative Matt Pierce (D-Bloomington), and are awaiting a copy of his final language for a bill.

SB 335 Illegal Alien Matters (Delph, R-Carmel)

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

Illegal alien matters. 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 police employees 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 training the police employees. Provides that a police employee certified as trained may enforce the federal immigration and customs laws. Prohibits a person from knowingly employing an unauthorized alien. Requires 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; and (4) maintain certain records of violation orders. Requires prosecuting attorneys to file actions against employers for knowingly employing unauthorized aliens after December 31, 2008. Requires a court to: (1) hold a hearing and make a determination of the action on an expedited basis; (2) if a person knowingly employs an unauthorized alien, order the employer to terminate the employment of unauthorized aliens, order the employer to file

a signed affidavit, and place the employer on probation for three years; (3) order agencies to suspend all licenses held by the employer for the operation of the business location if the employer fails to file a sworn affidavit; (4) for a second violation during the probationary period, order agencies to revoke all licenses held by the employer for the operation of the business location; and (5) send copies of orders to the attorney general. Provides that a court may: (1) suspend an employer's licenses if an employer knowingly employs an unauthorized alien; and (2) consider only the federal government's verification or status information in determining whether an individual is an unauthorized alien. Establishes: (1) a rebuttable presumption that an employer did not knowingly employ an unauthorized alien if the employer verified the employment authorization of an individual through the federal pilot program; and (2) an affirmative defense if the employer complied in good faith with the federal employment verification requirements. 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. Requires: (1) hospitals to provide information to the state department of health on the total cost of health care services for individuals who are not citizens or qualified aliens; and (2) the state department of health to compile the information and provide an annual report to the general assembly. Makes it a Class C misdemeanor to knowingly file a false or frivolous allegation with the attorney general. 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 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. Makes these offenses a Class D felony (Class C felony for subsequent offenses): (1) for a subsequent offense; (2) if the offense involves more than five aliens; or (3) if the offense was committed for the purpose of commercial advantage or private financial gain.