



2012 LEGISLATIVE UPDATE

HEA 1002: ELIMINATION OF COMMISSIONS, BOARDS, AND COMMITTEES

- Abolishes the air pollution control board, water pollution control board, and solid waste management board.
- Powers and duties of the abolished boards are transferred to a new, 16 member environmental rules board. An agricultural representative is appointed by the Governor to serve on this board.
- The board will select, from three qualified individuals recommended by the Governor, an independent third party who is not an employee of the state to serve as technical secretary of the board. The technical secretary shall review all materials prepared for the board by the department to make any necessary revisions. The technical secretary is not a voting member of the board.
- The board may also select, from a list of three qualified individuals recommended by the governor, an independent third party who is not an employee of the state to serve as legal counsel. The legal counsel will advise the board on legal matters or proceedings arising from the exercise of the board's duties and review all materials prepared for the board by the department for legal accuracy and sufficiency and direct the department to make any necessary revisions.
- The board may establish advisory committees for the purpose of giving advice on any matters pertaining to the business of the board.
- Repeals the Tobacco Farmers and Rural Community Impact Fund and Water Shortage Task Force

Effective Date: July 1, 2012

Final Vote: House 61-36
Senate 44-4

Author/Sponsor: Sen. Lawson, Sen. Landske
Rep. Wolkins

Groups Impacted: all agricultural producers who are regulated by IDEM

HEA 1091: AGRICULTURAL OPERATIONS

- Amends state law regarding agricultural operations that are the subject of nuisance actions.
- Adds a new section which states that, if a court finds that the agricultural operation was not a nuisance and that the action was frivolous, the court shall award court costs and reasonable attorney's fees to the defendant in the action.
- If a court finds that the operation was a nuisance and the defense of the action was frivolous, the court shall award court costs, including reasonable attorney's fees, to the plaintiff in the action.
- The determination that an action was initiated or maintained frivolously may not be based on the mere fact that a party did not prevail.

Effective Date: July 1, 2012

Final Vote: Senate 36-14
House 58-35

Author/Sponsor: Rep. Friend
Sen. Steele, Sen. Leising

Groups Impacted: all types of agricultural operations that may become the subject of a nuisance action

HEA 1117: REGIONAL WATER AND SEWER DISTRICTS

- Provides that a district or utility may not require a property owner to connect to the district's or utility's sewer system under certain conditions for ten years.
- Within 60 days after the date of the written notice requiring connection, the owner must notify the utility in writing that the property owner qualifies for the exemption under this section. The property owner is exempt if: (1) the septic system was new at the time of installation and approved in writing by the local health department; (2) the property owner, at the property owner's expense, obtains and provides to the public sewer utility a certification from the local health department or the department's designee that the sewage disposal system is functioning satisfactorily. If the local health department or the department's designee denies the issuance of a certificate to the property owner, the property owner may appeal the denial to the board of the local health department. The decision of the board is final and binding.
- Allows the property owner to apply for two five year extensions.

- Limits to \$100 the daily penalty for failing to connect to a sewer system.

Effective Date: July 1, 2012

Final Vote: House 62-30
Senate 33-17

Author/Sponsor: Rep. Wolkins
Sen. Gard, Sen. Leising

Groups Impacted: all rural landowners that are currently connected to a sewer system or may be required to connect to such system in the future

HEA 1128: CORN MARKETING COUNCIL

- Sunsets the Retail Merchant E85 Deduction Reimbursement Fund, which required ICMC to annually send funds to the state budget office to provide for an 18 cent per gallon retailer tax credit.
- Amends the definition of "producer" for purposes of the corn marketing laws.
- Adds requirement that a producer has had an assessment in the previous two years to qualify as a member of the corn marketing council (council).
- Provides that vacancies on the council are filled by the appointing authority.
- Changes the date that a petition for candidacy to the council may be filed.
- Provides that the council operates on a fiscal year. (Current law requires the council to operate on a state fiscal year.)
- Establishes a formula to determine the maximum administrative expenses of the council.
- Provides that the cost of processing refunds and applying for grants are not administrative expenses.
- Requires a first purchaser of corn to remit the assessment when payment is received.
- Provides that a first purchaser that is not subject to assessment is to sign and date an exemption form.

- Establishes an assessment refund schedule based upon the amount owed.

Effective Date: July 1, 2012

Final Vote: House 90-1
Senate 50-0

Author/Sponsor: Rep. Lehe
Sen. Gard

Groups Impacted: all Indiana corn producers who either pay into the checkoff or request refunds

HEA 1129: STATE CHEMIST ISSUES

- Provides civil penalty authority to the state chemist under the agricultural ammonia law and subpoena authority to the state chemist under the agricultural ammonia law and the commercial fertilizers laws. Provides that the state chemist may impose a civil penalty only according to a schedule recommended by the fertilizer advisory board.
- Amends the pesticide laws and the pesticide use and application laws as follows: (1) Expands the definition of "produce". (2) Makes changes to the qualifications of certain members on the pesticide review board. (3) Makes changes to the duties and rule making authority of the pesticide review board. (4) Exempts employees of not-for-profit organizations from the annual pesticide applicator license fee. (5) Repeals registration requirements and fees for pesticide consultants. (6) Amends provisions of state pesticide law to apply to all pesticide products, including both chemicals and devices. (Current law only applies to chemicals.) (7) Makes changes to comply with federal pesticide laws.
- Amends the commercial feed laws as follows: (1) Adds and amends numerous definitions. (2) Adds a late fee for distributing feed before applying for a license. (3) Allows the state chemist to revoke, suspend, or place conditions on a commercial feed license that is not in compliance. (4) Makes changes to required labeling information. (5) Provides conditions that make commercial feed adulterated. (6) Adds authority to adopt rules concerning specialty pet foods. (7) Adds as Class A infractions: (A) distribution of raw milk that is not labeled "Not for Human Consumption"; and (B) distributing animal feed and stating, promoting, or advertising that it is fit for human consumption. (8) Directs the state board of animal health (BOAH) to conduct a study of the issue of farmers selling unpasteurized milk to consumers.

- The BOAH study must be concluded before November 1, 2012. At the conclusion of the study, the board shall prepare a report setting forth the results of the study not later than December 1, 2012. The board shall present the report to the Governor, legislative council, and make copies of the report available to the public.

Effective Date: July 1, 2012

Final Vote: House 93-0
Senate 50-0

Author/Sponsor: Rep. Lehe
Sen. Mishler

Groups Impacted: holders of OISC fertilizer, feed, and pesticide licenses; dairy producers

HEA 1298: TRANSPORTATION OF FOOD PRODUCTS

- Provides that a person who operates a motor vehicle for the transportation of food without complying with health rules or certain health requirements concerning food transportation commits a Class A infraction.
- Authorizes a law enforcement officer to inspect, detain, and, in certain cases, impound a motor vehicle that does not comply with the health rules.
- Provides that a health inspector may order the disposal of certain food and the impoundment of noncomplying motor vehicles.
- Provides that a person who transports food that was ordered disposed commits a Class A misdemeanor.
- Provides civil immunity for certain individuals enforcing food transportation safety laws.

Effective Date: Upon Passage

Final Vote: House 92-0
Senate 49-0

Author/Sponsor: Rep. Davis
Sen. Holdman, Sen. Paul

Groups Impacted: consumers; companies engaged in food transportation

HEA 1312: SALE OF POULTRY AT FARMERS MARKETS

- Allows poultry products slaughtered and processed on a farm to be sold at a farmer's market and roadside stands according to rules established by the Indiana State Department of Health.
- Requires the department of health to adopt rules that incorporate certain federal regulations. These regulations authorize farmer's market and roadside stand sales, but also require the poultry to be frozen at the point of sale and set forth certain labeling requirements.
- Requires the legislative council to study obstacles to local food production, processing, and distribution in Indiana and make recommendations for action that will encourage farmers and residents to produce, process, and distribute locally grown food.
- The interim study committee must submit a final report to the legislative council before November 1, 2012. The report must include the interim study committee's findings and recommendations, including any recommended legislation concerning the issue of local food production, processing, and distribution.

Effective Date: May 31, 2012 and July 1, 2012

Final Vote: House 69-19
Senate 49-0

Author/Sponsor: Rep. Ellspermann
Sen. Young

Groups Impacted: poultry producers who conduct on-farm processing; organizations providing programs and support to local food production in Indiana; all Indiana farms, processors, and distributors that are involved in producing food items for sales at farmers markets and other local venues

SEA 19: PROPERTY TAXES

- Specifies that the soil productivity factors used for March 1, 2011, shall be used for the March 1, 2012, assessment date, instead of the new values determined by the DLGF for March 1, 2012.

Effective Date: July 1, 2012

Final Vote: House 90-0
Senate 36-14

Author/Sponsor: Sen. Boots
Rep. Richardson

Groups Impacted: all taxpayers subject to state property taxes

SEA 132: WATER UTILITY RESOURCE DATA

- Requires each water utility that provides water service to the public in Indiana for a fee to annually submit to the Indiana utility regulatory commission (IURC) a report on the following: (1) The types of use of the water resources used by the utility in providing water service to Indiana customers. (2) The utility's operations and maintenance costs in providing water service to Indiana customers.
- Allows the IURC to prescribe the process, deadlines, and other requirements for submitting the annual reports.
- Requires the IURC to collect in each annual report certain information concerning each water utility's plant in service, use of water resources, and sources of funding.
- Requires the IURC to include a summary of the data and information contained in the reports in: (1) an annual report to the legislative council; and (2) the commission's annual report on the water and wastewater industries provided to the regulatory flexibility committee.
- Provides that in making the required reports, the IURC shall: (1) use aggregated data to protect the confidential information of individual water utilities; and (2) include in the reports recommendations concerning the use of financial resources by water utilities, necessary infrastructure investments by water utilities, and actions to minimize impacts on rates paid by water and wastewater customers.
- Authorizes the IURC to adopt rules to implement the reporting requirements.
- Excludes an underground aquifer or water in an underground aquifer from the definition of "watercourse".

Effective Date: Upon Passage

Final Vote: House 71-27
Senate 44-3

Author/Sponsor: Sen. Gard
Rep. Wolkins

Groups Impacted: all water users subject to water withdrawal regulations of a city or town

SEA 293: INHERITANCE TAX

- Reclassifies a spouse, widow, or widower of a child of the transferor as a Class A transferee instead of a Class B transferee. Reclassifies a spouse, widow, or widower of a stepchild of the transferor as a Class A transferee instead of a Class C transferee.
- Increases the inheritance tax exemption amount for Class A transferees from \$100,000 to \$250,000 with respect to taxable transfers resulting from the deaths of individuals dying after December 31, 2011.
- Phases out the inheritance tax over 9 years beginning in 2013.
- Phases out the inheritance tax replacement amounts payable to counties over 10 years beginning with amounts payable for the state fiscal year beginning July 1, 2012.

Effective Date: July 1, 2012

Final Vote: House 78-17
Senate 48-0

Author/Sponsor: Sen. Smith
Rep. Turner

Groups Impacted: all Indiana citizens who will be impacted by the inheritance tax either as transferors or transferees

SEA 311: COST BENEFIT ANALYSIS FOR ADMINISTRATIVE RULES

- With certain exceptions, requires the office of management and budget (OMB) to prepare for each administrative rule that: (1) has been adopted; and (2) has taken effect; after December 31, 2011, a cost benefit analysis with respect to the first three years following the rule's effective date.
- Provides that if the OMB finds that a proposed rule is: (1) an adoption or incorporation by reference of a federal law, regulation, or rule that has no substantive effect on the scope or intended application of the federal law or rule; or (2) a technical amendment

with no substantive effect on an existing Indiana rule; the OMB may not prepare a cost benefit analysis of the proposed rule or with respect to the first three years following the rule's effective date.

- Requires the OMB to submit its findings that the OMB may not prepare a cost benefit analysis on the rule to the administrative rules oversight committee (committee) and the governor.
- Requires the OMB to submit a cost benefit analysis to: (1) the governor; and (2) the committee; not later than six months after the third anniversary of the rule's effective date.
- Provides that a cost benefit analysis prepared before or after a rule's adoption and effective date must include certain information, including information concerning: (1) the rule's primary and direct benefits; (2) the rule's secondary and indirect benefits; and (3) any cost savings to regulated persons as a result of the rule.
- Provides that a cost benefit analysis may contain additional information that the governor or the committee requests in writing.
- Provides that the governor or the committee may prescribe: (1) the form of a cost benefit analysis; and (2) the process, deadlines, and other requirements for submitting a cost benefit analysis.
- Provides that in preparing a cost benefit analysis: (1) before a rule's adoption under the existing statute that requires a cost benefit analysis for proposed rules; or (2) after a rule's adoption and effective date under the act; the OMB shall consider any verified data provided voluntarily by interested parties, regulated persons, and nonprofit corporations whose members may be affected by the rule.
- Provides that if the OMB or an agency is unable to obtain verified data for a cost benefit analysis, the OMB shall state in the analysis which data were unavailable.
- Provides that a cost benefit analysis prepared before or after a rule's adoption is a public document, subject to the following: (1) The OMB or an agency may not require an interested party or a regulated person to provide information in connection with an analysis. (2) If an interested party or a regulated person voluntarily provides information, the OMB or an agency responsible for proposing or administering the rule shall ensure adequate protection of any confidential or proprietary information provided. (3) At least 30 days before presenting the cost benefit analysis to the governor and the committee, the OMB shall make the cost benefit analysis available to interested parties, regulated persons, and nonprofit corporations whose members may be affected by the rule.

- Provides that if an agency has adopted rules regarding the confidentiality of information, interested parties and regulated persons must submit the information in accordance with the confidentiality rules adopted by the agency to ensure proper processing of confidentiality claims.

Effective Date: July 1, 2012

Final Vote: House 96-0
Senate 43-5

Author/Sponsor: Sen. Hershman
Rep. Truitt

Groups Impacted: all Indiana agribusinesses are impacted because this legislation applies to all state administrative rules