

ANNUAL REPORT  
OF THE  
INTERIM STUDY COMMITTEE ON  
ECONOMIC DEVELOPMENT



Indiana Legislative Services Agency  
200 W. Washington Street, Suite 301  
Indianapolis, Indiana 46204

November, 2013

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# INTERIM STUDY COMMITTEE ON ECONOMIC DEVELOPMENT

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A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

## **I. STATUTORY DIRECTIVE**

IC 2-5-31.8 directs the Committee to study the following:

- (1) Best practices in state and local economic development policies and activities.
- (2) The use and effectiveness of tax credits and deductions.
- (3) Whether there are any specific sectors of the economy for which Indiana might have comparative advantages over other states.
- (4) The extent to which Indiana's tax laws encourage business investment, and any improvements that might be made to Indiana's tax laws.
- (5) The extent to which Indiana's education systems support economic development.
- (6) The benefits of existing community revitalization enhancement districts and possible new community revitalization enhancement districts as an economic development tool.
- (7) Any other issue assigned to the committee by the Legislative Council or as directed by the Committee's co-chairs.

The Legislative Council assigned these additional topics to the Committee:

- (1) Farm winery issues, including whether a holder of a farm winery permit should be entitled to sell wine to holders of wine retailer's permits issued under IC 7.1-3-14 or wine dealer's permits issued under IC 7.1-3-15, current options that Indiana farm wineries have in getting the farm wineries' products to Indiana retailers, the cost and effectiveness of these options for manufacturers, distributors, and retailers of alcoholic beverages in Indiana, and the effect that allowing Indiana farm wineries to sell directly to retailers and dealers would have on the efficiency of collecting wine excise tax and out-of-state wineries.
- (2) Economic development in rural areas including fostering entrepreneurship in rural areas of Indiana, attracting new businesses to rural areas of Indiana, attracting venture capital to rural areas of Indiana, expanding existing businesses in rural areas of Indiana, and promoting gainful employment opportunities and workforce development in rural areas of Indiana.
- (3) Regulation of residential leases by political subdivisions.
- (4) Trespassing for the purpose of harming a business and making video images of a business with the intent to falsely portray the operation of a business.
- (5) Supplier discriminating against consumers based on the price of promotion of goods to retailers by refusing to sell to a retailer a good at the same price that the supplier sells the good to any other retailer.

## **II. INTRODUCTION AND REASONS FOR STUDY**

The General Assembly is interested in examining the scope, focus, and efficacy of Indiana's economic development assistance and incentive programs and evaluating the extent to which Indiana's laws, policies, and educational systems influence economic development. In particular, the General Assembly wants to review and evaluate the effectiveness of existing state and local government programs, consider new proposals, and determine whether the state's economic development programs operate within the parameters of best practices established around the

United States.

### **III. SUMMARY OF WORK PROGRAM**

The Committee met four times. These meetings were held in Indianapolis, Indiana, on August 21, 2013, September 4, 2013, September 25, 2013, and October 9, 2013.

At the August 21st meeting, the Committee considered the following topics:

- (1) Whether a holder of a farm winery permit should be entitled to sell wine to holders of wine retailer's permits issued under IC 7.1-3-14 or wine dealer's permits issued under IC 7.1-3-15.
- (2) Current options that Indiana farm wineries have in getting the farm wineries' products to Indiana retailers.
- (3) The cost and effectiveness of the options described in (B) for manufacturers, distributors, and retailers of alcoholic beverages in Indiana.
- (4) The effect that allowing Indiana farm wineries to sell directly to retailers and dealers would have on the efficiency of collecting wine excise tax and out-of-state wineries.

At the September 4<sup>th</sup> meeting, the Committee considered the following topics:

- (1) Fostering entrepreneurship in rural areas of Indiana.
- (2) Attracting new businesses to rural areas of Indiana.
- (3) Attracting venture capital to rural areas of Indiana.
- (4) Expanding existing businesses in rural areas of Indiana.
- (5) Promoting gainful employment opportunities and workforce development in rural areas of Indiana.

At the September 25<sup>th</sup> meeting, the Committee considered the following topics:

- (1) Regulation of residential leases by political subdivisions.
- (2) Trespassing for the purpose of harming a business and making video images of a business with the intent to falsely portray the operation of a business.

At the October 9<sup>th</sup> meeting, the Committee considered the following topics:

- (1) Best practices in state and local economic development policies and activities.
- (2) The role of Indiana's higher education system in economic development.
- (3) The extent to which Indiana's K-12 school systems and Department of Education support economic development.
- (4) Indiana's K-12 school systems and economic development.
- (5) The Indiana Innovative Workforce Centers project.
- (6) The Indiana Economic Development Corporation Economic Development Incentives and Compliance Report and Twenty-First Century Research and Technology Report.

- (7) The use and effectiveness of tax credits and deductions.
- (8) Whether there are any specific sectors of the economy for which Indiana might have comparative advantages over other states.
- (9) The extent to which Indiana's tax laws encourage business investment, and any improvements that might be made to Indiana's tax laws.
- (10) The benefits of existing community revitalization enhancement districts and possible new community revitalization enhancement districts as an economic development tool.
- (11) Jobs and employment data.
- (12) The final report of the Committee.

The Committee did not consider the topic of a supplier discriminating against consumers based on the price of promotion of goods to retailers by refusing to sell to a retailer a good at the same price that the supplier sells the good to any other retailer (assigned by the Legislative Council).

#### **IV. SUMMARY OF TESTIMONY**

The testimony focused on these broad topics:

- (1) The Indiana wine making industry.
- (2) Rural economic development.
- (3) Regulation of residential leases by political subdivisions.
- (4) Trespass and video taping business operations.
- (5) Taxes.
- (6) Workforce and education.
- (7) Marketing Indiana.

#### **The Indiana Wine Making Industry.**

Several individuals testified on the laws governing the distribution of wine made in Indiana, including trade association representatives, Indiana farm winery owners, and traditional distributors of wine. This testimony covered the following:

- (1) The wine trade associations and Indiana farm winery owners stated their support for a change in the law to allow Indiana farm winery owners to self-distribute to holders of wine retailer's permits or wine dealer's permits, with an annual 5,000 gallon limitation as a compromise. They said that such a limited law would not be attractive to out-of-state wineries.
- (2) The wine wholesalers and the Wine and Spirits Wholesalers of Indiana stated the micro-winery wholesaler permit is a good option and that no change in the law is needed. They explained the history of alcoholic beverage laws and the "three-tiered" system and how the three-tiered system makes wholesalers the tax collectors for the State. They said that wineries from California are illegally selling direct now, circumventing the law, and not collecting taxes.
- (3) The likely harm to wholesalers in Indiana if the law were changed.

- (4) The policing function and tax collection aspects of the current law for a socially sensitive product.
- (5) The United States Supreme Court case of Granholm v. Heald (Granholm), which held that a state could not discriminate between in-state wineries and out-of-state wineries.
- (6) The legislation adopted in 2006 (P.L. 165-2006) that repealed a small winery's ability to directly distribute to dealers and retailers, leaving wineries with two options: (A) sell directly to the public at the winery; and  
(B) sell to a wholesaler.
- (7) The limitations the 2006 law places on growth in Indiana wineries and therefore job growth.
- (8) The usefulness of the \$100 micro-winery wholesaler permit created by the 2006 law and the growth in Indiana wine production since 2006.
- (9) The cost effectiveness of self-distribution for getting farm winery products to manufacturers, distributors, and retailers of alcoholic beverages in Indiana.
- (10) The collection of the wine excise tax from out-of-state wineries.
- (11) Data on wine production.
- (12) That locally grown consumer products are comprising a growing part of the agricultural industry and that these local products encourage agri-tourism.

The Committee also viewed a video documentary made by WTIU Public Television and Indiana University showcasing Indiana wineries.

### **Rural Economic Development.**

The Committee focused on the economic conditions in Indiana's rural areas at its second meeting. The Committee studied the opportunities for economic growth in rural areas and challenges to rural economic development, and heard testimony covering the following points:

- (1) Rural areas in Indiana are in economic decline.
- (2) The majority of economic development incentives are used by larger businesses in the most populous areas of the state and not in rural areas.
- (3) The proposal first made by Lieutenant Governor Sue Ellspermann in 2012 to establish Rural Entrepreneurship Area Development Incentives (READI) areas, which was authored in 2013 by Representative Davisson and various co-authors (HB 1462-2013).
- (4) A description of the barriers to growth in rural Indiana.
- (5) The evolution in the thinking about economic development to match the evolution of the economy, which is now driven by highly-skilled workers and where they prefer to live.
- (6) Action on making broadband Internet access available throughout rural Indiana and the conflict between wind-power development and broadband.
- (7) The use and needed flexibility of tax-increment financing (TIF), abuses of TIF in Brown County by the town of Nashville, and the use of TIF for broadband funding in the city of Wabash.
- (8) Rural Indiana is not getting help from venture capitalists or industrial developers to solve

their problems.

(9) Interlocal cooperation is a key to a better future in rural Indiana.

(10) That the role of the IEDC should be coaching and mentoring businesses through their growing pains at all stages of business development.

(11) The regulation of confined animal feeding operations (CAFO) and the worthiness of supporting big agribusiness and how out-of-state landowners do not contribute to the community.

(12) The poor condition of roads in several rural communities.

(13) Annexation of rural areas. On the annexation topic, the Committee heard testimony and was provided information on the following:

(A) The level of control over property a local unit needs to promote the long-term interests of its citizens and the need for cities to grow to survive.

(B) The relationship of annexation and zoning.

(C) The relationship between the property tax caps and annexation.

(D) Voluntary and involuntary annexation and the use of a petition and remonstrance process.

(E) The approval threshold for an annexation.

(F) The use of city services by rural residents that do not pay for the services.

(G) The increase in annexation activity.

(H) The connection between annexation and economic development.

(I) The recent experience in Vanderburgh County and the City of Evansville.

(J) How the deck is stacked against rural opponents to annexation because the prospect of opposing an annexation is overwhelming and the current procedure creates animosity, has a negative effect on rural electric companies, and undermines the preservation of farm land.

### **Regulation of Residential Leases by Political Subdivisions.**

The Committee studied the topic of regulating residential leases by political subdivisions at its third meeting. Testimony in support and in opposition to regulatory programs covered the following:

(1) The proposal concerning regulatory programs and a one-year moratorium on fees that was enacted in HEA 1313-2013.

(2) The use of registration and regulation ordinances with regard to single, duplex, and multi-unit rental properties and the conversion of single family residences to rental properties.

(3) Legislation from 2011 (HEA 1543-2011), which allowed landlords to pass along the fees to tenants and required local units to establish a dedicated fund for the fees.

(4) The level of fees imposed by political subdivisions, the one-year moratorium in HEA 1313-2013, the use of fees to offset the impact of the property tax caps, the interest in political subdivisions wanting to adopt a program and the impact of the moratorium on those actions, and the need for revenue to operate a program.

- (5) Landlord registries and complaint-based programs versus a regulatory or inspection programs, the public safety value of these programs, especially where there is a high concentration of student housing, and the positive impact a program has on property values.
- (6) Owner and property manager inspections as part of normal apartment business operations.
- (7) Programs in place throughout Indiana, including the U.S. Department of Housing and Urban Development (HUD) inspection program, and the positive and negative points of the various programs.
- (8) Insurance company recognition of company and local government inspection programs in rate setting.
- (9) The applicability of current Indiana Code provisions and local ordinances governing building safety and conditions and why new laws are not needed to solve the rental property problems.
- (10) The use of public safety services at rental properties.
- (11) The application of the United States Constitution's Commerce Clause to regulatory programs with regard to discrimination against certain property categories.
- (12) The allocation of revenue from fines for building code violations.
- (13) The Indiana Attorney General's role in building code violations.
- (14) Home rule by local government.
- (15) The use of fire and safety inspections and building permit requirements by political subdivisions to address some of the concerns.
- (16) The variance in the number of rental units per capita, such as in the City of Bloomington and City of West Lafayette, and the need for each political subdivision to design a program that works in their situation.

### **Trespass and Video Taping Business Operations.**

Also at its third meeting, the Committee studied the topic of trespassing and falsely portraying the operations of a business. The testimony on this topic included the following points in support and in opposition to a change in the law on criminal trespass:

- (1) The importance of private property rights.
- (2) The definition of criminal trespass under current law and under various proposals made in 2013 legislation, including the intent of a trespasser to portray a business in a harmful way as element of the crime.
- (3) Concerns with trespassing in the agricultural business community and how agricultural businesses are targeted.
- (4) Animal abuse, animal treatment, and food production by industrial agricultural operations.
- (5) Protecting trade secrets.
- (6) Biochemical concerns at agricultural operations and people putting themselves and the operation at risk by trespassing.
- (7) Preventing the release of true information.
- (8) False employment applications to get on the inside of a business.
- (9) The regulatory agencies that under current law oversee industrial and agricultural

operations and handle complaints about violations.

(10) The publication of information obtained by the press and the laws concerning libel and how they relate to the issue, including the right of the press to publish even if the information came from a trespasser.

(11) The case law that provides that images are protected speech, the truth is an absolute defense, and that a criminal defamation law must require false images to be constitutional.

(12) Government subsidies to agricultural justify more oversight.

(13) The application of whistle blowing laws in employment situations.

(14) Recent proposals in other states that would expand the scope of criminal trespass.

(15) Penalties for criminal trespass.

(16) Trespass for civil disobedience purposes.

### **Taxes.**

Tax issues were not a topic area of special emphasis for the Committee in the 2013 interim. However, at the October 9 meeting the Committee did receive several suggestions for changes to Indiana's tax system that could be beneficial for economic development:

- Eliminate the sales tax on data center equipment.
- Make the Hoosier business investment tax credit refundable.
- Eliminate personal property taxes.
- Make community revitalization enhancement districts (CREDs) available to third-class cities.

### **Workforce and Education.**

A significant part of the October 9 meeting was devoted to issues concerning the relationship of education and training to economic development. The Committee heard from witnesses on the following segments of career-oriented education and training:

- High-school level students in the Indiana public school system's Career and Technical Education programs. These programs offer career-oriented learning opportunities to high school students in 12 different career clusters. Students in these programs may earn dual high school/college credit for some classes and also prepare to take examinations required for various industry certifications.
- Post-secondary vocational training in the field of industrial maintenance. An associate's degree program in industrial maintenance now being developed would combine classroom learning and work with a sponsoring employer that contributes to student learning. The program is intended to address a shortage of experienced technicians in

industrial maintenance that are needed across a range of industries, including the automotive industry.

- Workforce training. The Indiana Department of Workforce Development's WorkOne Centers attempt to match unemployed and displaced workers with employers. This process can include coordinating additional training for workers to prepare them for their next jobs.

The Committee also heard about the Commission for Higher Education's efforts to make sure that Indiana's post-secondary public institutions are offering a wide range of relevant and flexible degree programs at all levels of academic achievement that will give students a realistic opportunity to enjoy a middle-class lifestyle. Relevance, it is felt, ought to be reflected in the value a student's education has in terms of the demands for the corresponding skills in the Indiana labor market. Flexibility will be required to accommodate the demographic realities of older students needing to take post-secondary classes at various times throughout their working lives.

### **Marketing Indiana.**

The promotion of Indiana was not a topic of intensive study during the 2013 interim. However, in the course of the testimony, several witnesses made observations relevant to the idea of promoting Indiana.

The marketing idea of narrowest scope came out of the testimony on whether small wineries should have the right to self-distribute their wines. The small vintners are confident that their products can compete with wines from other locales. And restaurateurs, other venue operators, and stores would like to offer local Indiana wines made by the small wineries. This discussion resulted in a Committee recommendation that the small wineries and the distributors try to find a legislative compromise that would allow this to happen.

On the topic of rural economic development, there was no dispute in the testimony that the availability of broadband telecommunications is an essential selling point for rural communities in attracting businesses. However, the relatively low population of rural areas in many cases discourages private telecommunications companies from building out broadband into rural areas on their own. On September 4th, the Committee learned how the City of Wabash was able to resolve this impasse. Essentially, the City of Wabash decided to use tax increment financing (TIF) to create an unusually shaped TIF district to raise the money for the project. But to establish the TIF district over a usefully wide geographic area, the City required interlocal agreements with Wabash County government and neighboring communities. The City was eventually able to accomplish its goal of establishing the broadband system. Subsequently, the City has been able to use that broadband system as a selling point to attract new business.

Testimony over the 2013 interim and past few interim periods discloses a consensus, in agreement with statistical measures, that the average educational attainment of the Indiana

workforce as a whole regularly presents an objection to be overcome in attracting business to Indiana. Improving this situation is evidently a long-term process. For example, one of the possible positive effects of the associate's degree program in industrial maintenance now being developed, described above, is that in the long run the program will produce a significant pool of trained, experienced workers in industrial maintenance in Indiana that would be an asset in marketing Indiana. More generally, the long-term nature of the process is reflected in the Commission for Higher Education's major goals that are set out in its strategic plan "Reaching Higher, Achieving More":

- Increase on-time college graduation rate for Hoosier students to at least 50 percent at four-year campuses and 25 percent at two-year campuses by 2018.
- Double the number of college degrees and certificates produced currently [March 2012] by 2025 (requires increasing annual degree production from approximately 60,000 degrees to approximately 120,000 degrees).
- Increase higher education attainment of Hoosier adults to 60 percent of Indiana's population by 2025 (45 percent by 2018).

Indiana Commission for Higher Education, "Reacher Higher, Achieving More", available at <http://www.in.gov/che>.

## **V. COMMITTEE FINDINGS AND RECOMMENDATIONS**

The Committee made the following findings of fact:

- (1) The local wine-growing industry is adversely impacted by the current statutory restrictions on self-distribution of wine.
- (2) Education is critical to economic development.

The Committee made the following recommendations:

- (1) The General Assembly should adopt legislation that supports some degree of self-distribution of wine by the local wine-growing industry while not negatively impacting distributors of wine.
- (2) The General Assembly should provide adequate education funding to support the goal of having an educated workforce capable of contributing to Indiana's economic development.

By voice vote, the Committee approved the foregoing findings and recommendations.

The Committee approved this final report by voice vote after discussing the proposed findings and recommendations.

WITNESS LIST

Lisa Abbott, representing the City of Bloomington, Indiana

John Barger, apartment owner

John Barnes, Director of Legislative Affairs  
Indiana Department of Education

Rick Black, Owner  
Wildcat Winery

David Bottorff, Executive Director  
Association of Indiana Counties

Mark Brinson, representing the City of Goshen, Indiana

Patti Clutter, Owner  
Mystique Winery

Matt Conrad, Director  
Indiana Automotive Council, Conexus Indiana

Rhonda Cook, Director of Government Affairs & Legislative Counsel  
Indiana Association of Cities and Towns

Amy Cornell, Policy Advisor and Counsel  
Indiana Farm Bureau

Barbara Sha Cox

Vicki Deisner, Midwest Director  
The American Society for the Prevention of Cruelty to Animals

Dale Dixon, representing the City of West Lafayette

Eric Doden, CEO  
Indiana Economic Development Corporation

Melissa Dowdy, a resident of the Lakeview Apartments  
Franklin, Indiana

Judith Essex, Indianapolis Old Southside Neighborhood Association

Kim Ferraro, Water & Agriculture Policy Director and Staff Attorney

Hoosier Environmental Council

Dr. Raymond Golarz

Nancy Guyott, President  
Indiana AFL-CIO

Katrina Hall, Director of State Government Relations  
Indiana Farm Bureau

Gary Harbaugh, Fort Wayne resident

Eric Harris, Owner  
Two EEs Winery

Marian Harvey, resident of Roachdale, Putnam County

Lisa Hays, Counsel  
Indiana Winery and Vineyard Association

Michael Hicks, Director  
Center for Business and Economic Research  
Ball State University

Representative Kathy Heuer

John Q. Houchin, Director of Construction  
Edward Rose & Sons

Erin Huang, Indiana Director  
The Humane Society of the United States

Gary Humphrey, Owner  
River City Winery

Mayor Allan Kauffman, Goshen, Indiana

Robert Kraft, Director of State Government Relations  
Indiana Farm Bureau

Bill Konyha, President and Chief Executive Officer  
Economic Development Group of Wabash County, Inc.

Teresa Lubbers, Commissioner  
Indiana Commission for Higher Education

Mayor Thomas McDermott, Hammond, Indiana

Dave Menzer, Citizens Action Coalition

Eric Ogle, Career and Technical Education Specialist  
Indiana Department of Education

Jonathon Peterson, Attorney  
Northwest Indiana Creative Investor Association

Jim Pfeiffer, Owner  
Turtle Run Winery

Chandler Poole, representing the City of West Lafayette

Rick Powers, Office of Code Enforcement  
Indianapolis, Indiana

Jim Purucker, Executive Director  
Wine and Spirits Wholesalers of Indiana

Ed Roberts, Governmental Affairs Consultant  
Indiana Manufacturers Association

Brad Rohrer, Manager of Associate Development  
Subaru of Indiana Automotive, Inc.

Michael Sakich  
IN Good Company, LLC

Scott Sanders, Commissioner  
Indiana Department of Workforce Development

Larry Satek  
Satek Winery

Geoff Schomaker, Director of Project Development  
Indiana Office of Community and Rural Affairs

Michael Seitz, President  
Greater LaPorte Chamber of Commerce

Bryan Sergesketter, Code Inspector  
Washington, Indiana

Aaron Smith, Founder  
Watchdog Indiana

John Soltan, V.P. Sales & Marketing  
Carroll Wine and Spirits

Representative Mike Speedy

Alan Tio, President  
Whitley County Economic Development Corporation

Josh Trenary, State Pork Producers Association

Samuel Tuffour, U.S. Department of Housing and Urban Development

Bruce Ungethiem, resident of Vanderburgh County

John Urbahns, Director of Community Development  
City of Fort Wayne

Charles (Chuck) Weisling, Evansville resident

Mayor Joe Wellman, Washington, Indiana

Evan Werling, President  
Brown County Redevelopment Commission and semi-retired CPA and businessman

Jodie Woods, General Counsel  
Indiana Association of Cities and Towns