

# Insights

## Take Five: 5 Things You Need to Know About Indiana Government

---

May 27, 2021

By: Amy M. Levander and Amy E. Schwarz

### **1. COVID-19 Vaccinations**

The fight against COVID-19 continues as Indiana works to distribute vaccines. As of May 25, Indiana has fully vaccinated 2,460,195 people, which is 42.3% of Indiana's population currently eligible to be vaccinated (age 12 and over). Nationwide, the percentage of the population age 12 and over that is fully vaccinated is 47% according to the CDC's COVID data tracker. In Marion County, Public Health Department Director Dr. Virginia Caine announced that capacity limits would be increased and masks would no longer be required for vaccinated individuals if approved by the City-County Council on June 7th, and all restrictions would be lifted once the county reports 50% of residents vaccinated. For more information and to schedule a vaccine appointment, visit [www.ourshot.in.gov](http://www.ourshot.in.gov).

### **2. Executive Authority**

The legislative and executive branch continue to disagree on several pandemic-related issues, and now Attorney General Todd Rokita has entered the legal fray. Since our last update, the Indiana General Assembly reconvened on May 10th to override Governor Eric Holcomb's veto of SEA 5, which requires the county or city legislative body to approve a local health department order that is more stringent than a state public health order. Because the bill became law immediately upon the Governor's veto being overridden, local orders across the state were considered void unless and until the local legislative body approved the policies. The Indianapolis City-County Council approved local COVID-19 restrictions at their meeting just hours after the legislature voted to override the veto.

Meanwhile, Attorney General Rokita has raised multiple objections to the legal challenges surrounding HEA 1123. Recall that the legislature passed and ultimately overrode the Governor's veto of the bill, which allows legislative leaders to call the General Assembly into an emergency session if the Governor has declared a statewide emergency. Governor Holcomb retained outside counsel to file a lawsuit against House and Senate leaders, challenging the constitutionality of the bill as "usurping a power given exclusively to the Governor" under the Indiana Constitution. But Attorney General Rokita asked the Marion Superior Court to dismiss the lawsuit, saying that the Office of the Attorney General "alone holds the authority to represent the State, State agencies, or State officials," and that state officials may only hire outside counsel "with the express consent of the Attorney General." In a response filed with the court, the Governor's legal team categorically denied Attorney General Rokita's interpretation of the relevant statutes, going so far as to call the arguments "absurd." To further muddy the waters, a separate challenge to HEA 1123 was filed by John Whitaker, who served as

counsel to Governor Robert Orr. The Whitaker challenge was filed in the event that Governor's Holcomb's complaint is ultimately dismissed for lack of standing. Attorney General Rokita filed a motion seeking a continuance in that case, arguing that state law requires the Court to issue a continuance in any case against legislators while the General Assembly is still in session. A response to the motion to continue is due June 2nd.

### **3. Legislative Interim Study Committees**

The Legislative Council of the Indiana General Assembly met earlier this month to approve study committee topics for the 2021 interim. We anticipate that most of these meetings will be held in person at the Statehouse, but electronic meetings may be held with permission from the Chair and Vice Chair of the Legislative Council. Topics assigned for study include juvenile sentencing to life without parole, unemployment programs for gig economy workers and independent contractors, Indiana's trauma care system, progress on risk-based management care program or capitated managed care program for Medicaid recipients, and more. **You can view the full list of study committee topics here.**

### **4. Changes to Unemployment**

Starting June 1, the Indiana Department of Workforce Development will require Hoosiers to be actively looking for full time work to qualify for unemployment benefits. Additionally, Indiana will no longer participate in the multiple federal pandemic unemployment programs, including the enhanced \$300 weekly payment and a program for gig workers and the self-employed starting June 19. Over 20 states are planning to end their participation in the federal unemployment programs before the supplemental benefits are scheduled to expire on September 6. Those in favor of ending the federal enhanced benefits posit that the enhanced benefit is making it difficult for businesses to find workers as the economy emerges from the COVID-19 pandemic, while opponents point to uncompetitive wages, continued school closures and other child care issues as more pressing problems preventing people from getting back in the labor market. **Indiana's unemployment rate for April was 3.9%** according to the Indiana Department of Workforce Development.

### **5. Federal News**

Last week, the US House of Representatives passed a bill to create a commission similar to the 9/11 commission to investigate the January 6, 2021 attack on the US Capitol by a vote of 252-175, with 35 Republicans voting in favor. The bill is likely to have trouble in the Senate, and if it fails to pass the Senate, Speaker Pelosi will likely create a different committee without bipartisan support that would have less investigatory powers. The US House of Representatives also voted narrowly to approve **\$1.9 billion for US Capitol building security**. Finally, President Biden recently signed the **COVID-19 Hate Crimes Act** to counter a rise in anti-Asian hate crimes amid the coronavirus pandemic, and is expected to offer a revised infrastructure proposal with a lower price tag than his initial proposal.

*Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.*