

National Association of Social Workers – Indiana Chapter
2008 Session of the Indiana General Assembly: Final Report
Submitted by Paul Chase and Kathryn Williams

The 2008 session of the Indiana General Assembly completed its work on March 14, 2008. After extensive negotiations to reach a compromise on property tax reform, in **HB 1001**, and some spirited fireworks prior to the demise of all immigration bills, both chambers adjourned after passing just over 150 bills. This session, NASW successfully advocated for modification of two bills related to licensure and scope of practice: **HB 1288** (certification of behavior analysts) and **HB 1172** (multiple occupations and professions). NASW also actively lobbied against anti-immigrant legislation, and **SJR 7** (the constitutional amendment to ban gay marriage), both of which failed to pass. Late in the session NASW worked to reinstate language in **HB 1001** requiring DFR to maintain an office in every county. Although **HB 1001** did pass with language *deleting* the requirement of county DFR offices, FSSA Secretary Mitch Roob verbally promised Sen. Vaneta Becker that he would maintain a DFR office in every county, and that he would support legislation reinstating this requirement in the 2009 session. Below are summaries of these pieces of legislation.

Professional licensure bills:

As introduced, **HB 1172** (Welch, C. Brown) included provisions for the licensure of addiction counselors and clinical addiction counselors and expansion of the Social Worker, Marriage and Family Therapist and Mental Health Counselor Board to include two members having at least five years of experience in clinical addiction counseling.

Addiction counseling experience was defined as “a time during which an applicant provides clinical services, including evaluation and treatment of clients, where at least fifty percent (50%) of the time consists of providing counseling services directly to clients diagnosed with a substance use disorder.” To be licensed as an addiction counselor, a person would be required to have a baccalaureate or higher degree in addiction counseling or in a related area as determined by the board. To be licensed as a clinical addiction counselor, a person would be required to have a master’s or doctor’s degree in addiction counseling or in a related field as determined by the board.

NASW Indiana objected to these licensure provisions because:

1. They did not exempt social workers or clinical social workers from these new licensure requirements. NASW was joined by the Marriage and Family Therapist and Mental Health Counselor professions in opposing the provisions on this ground.
2. Addiction counseling is a specialty practice within defined professions (such as social work) rather than a separate profession unto itself. In this sense, addiction counseling is similar to other specialty practice areas such as clinical social worker in gerontology (CSW-G), advanced social worker in gerontology (ASW-G), certified advanced children, youth and family social worker, (C-ACYFSW), certified social worker in health care (C-SWHC), certified clinical alcohol, tobacco and other drugs social worker (C-CATODSW), certified advanced social work case manager (CASWCM), and certified school social work specialist (C-SSWS). Allowing licensure for one type of specialty practice would open the door for requiring separate licensure of these other specialties, a burdensome and costly requirement potentially limiting the scope of practice which social workers are currently trained to provide.
3. “Grandfathering” provisions exempted from the licensure requirements individuals who held a master’s or doctor’s degree in a human service or behavioral science discipline and a valid certification at the highest level offered by the American Society of Addiction Medicine, The National Board for Certified Counselors, NAADAC, or a NAADAC state affiliate. This would have expanded licensure requirements for social workers, MFTs and MHCs by requiring them to obtain certification by another organization. NASW argued that requiring professionals already licensed in the State of Indiana to obtain additional education or certification by another organization, solely to create licensure status for addiction counselors, was unprecedented and highly inappropriate. Members of ICAADA also opposed these provisions because they would disallow grandfathering for addiction counselors who did not possess higher than a bachelor’s degree.

4. The bill included language that would allow an individual to qualify as an addiction counselor with a degree in addiction “or another human services related field”. NASW objected to this language on the grounds that it was overly vague.

Ultimately, the bill’s author agreed to remove the licensure of addiction counselor provisions through an amendment that was adopted at the initial hearing on **HB 1172** in the House Public Health Committee, and this issue died early on in the session. However, the likelihood that this issue will re-surface as a stand-alone bill in the 2009 session is high.

Another section of **HB 1172** that remained in the bill and has since been signed into law by the Governor establishes a new classification, dubbed “marriage and family therapist associate” or “LMFTA”, under the MFT licensure statute. Requirements for licensure as an LMFTA include a master’s or doctor’s degree in marriage and family therapy or related area as determined by the board, and other educational instruction formerly required of MFTs, except for having at least two years of clinical experience. Additionally, before an applicant for a license as a marriage and family therapist obtains any post degree clinical experience, the individual must now first be licensed as an LMFTA.

A new provision, thus far limited to the practice of marriage and family therapy, clarifies that persons who are exempted from licensure requirements; in particular, rabbis, priests, Christian Science practitioners, ministers or other members of the clergy, may practice marriage and family therapy for compensation.

HB 1288 (Summers,Hinkle) would have required any individual practicing or offering to practice behavior analysis to be certified by a newly established State Board of Behavior Analysts after 12/31/08. The bill stemmed from a request to the Indiana Commission on Autism by a parent of an autistic child over concerns about one or more individuals who were holding themselves out as being training in Applied Behavior Analysis (ABA) and who were doing more harm than good.

Under **HB 1288** as introduced, to be a certified behavior analyst a person would have to hold a current certification from the National Behavior Analyst Certification Board (BACB) and be a current member of a professional behavior analysis association, or have been credentialed within five years immediately preceding submission of an application to the board by another state that has credentialing standards for behavior analysts that were substantially equivalent to the credentialing standards established by the board. The bill defined “behavior analysis” as “the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior through skill acquisition and the reduction of problematic behavior.”

NASW, in concert with organizations representing MFTs, MHCs, and psychologists, objected to **HB 1288** because, among other things:

1. It did not exempt social workers or other mental health professionals from the licensure requirements, regardless of how extensive their training and experience in using behavior analysis techniques;
2. It would have prohibited social workers and others from using behavior analysis, one of many techniques in their treatment regimen, without being certified. This could open the door to requiring certification for one or more of the many other techniques used by social workers in the regular course of rendering services.
3. The definition of “behavior analysis” was too vague, and overlapped services regularly provided by social workers and others;
4. It would have allowed an out-of-state, private entity to determine regulations for Indiana.

Noting our objections, Rep. Summers agreed to offer a second reading amendment after **HB 1288** passed out of the Family, Children and Human Affairs Committee (which she chaired) by a vote of 10-0. The second reading amendment, agreed upon by proponents and opponents alike, struck most of the bill’s original language, requiring only that an individual who professes to be a certified behavior analyst or uses the initials “BCBA” or any other words, letters, abbreviations or insignia indicating or implying that the individual is a certified behavior analyst must hold and maintain the credentials administered by the BCBA. An individual who knowingly, intentionally or recklessly violated these provisions would commit a

Class B misdemeanor. The amendment passed by a voice vote, and **HB 1288** passed out of the House by a vote of 93-0.

Additional concerns materialized when the bill's proponents suggested further amendment to **HB 1288** in the Senate. However, after discussions with Senator Dillon, the bill's sponsor in the Senate, and Senator Steele, Chair of the Corrections, Criminal and Civil Matters to which the bill was assigned, NASW and others were able to convince all parties that **HB 1288** provided sufficient protections and should not be further amended. The bill passed third reading in the Senate without amendment by a vote of 47-0. It has since been signed into law by the Governor.

Property tax legislation:

HB 1001 contains provisions increasing the earned income tax credit from 6% to 9% of the federal credit, and finally making that credit permanent. The renters' deduction is increased from \$2500 to \$3000 per year, there is also a 2% annual cap on increases in property tax bills for seniors with individual incomes of less than \$30,000, or with joint incomes of less than \$40,000, and a house valued at less than \$160,000. These provisions were included to offset the increase in the state sales tax from 6% to 7%, effective April 1, 2008.

After intense debate, trustees were not eliminated, nor even unilaterally relieved of assessing duties. Instead, assessing responsibilities were shifted from the township assessors to one county assessor only in townships in which the number of parcels is less than 15,000, effective July 1, 2008. In the remaining larger townships, a referendum will be placed on the ballot for the 2008 general election, to determine whether to transfer the assessing duties of the township assessors to the county assessors. Higher certification requirements were added.

Other provisions include increasing of homestead credits, and granting of circuit breaker tax credits for the amount that property taxes exceed a capped amount of the assessed gross value of the real estate (phasing in by 2010 to 1% for homeowners; 2% for rental property, assisted livings, nursing homes, and agricultural lands; and 3% for non-residential real estate and personal property.) Obligations for child welfare, housing juveniles in department of corrections, health care for the indigent, and police and fire pensions, will be shifted from county levies to the state. There are no provisions for payment in lieu of taxes, nor for taxes on services.

Despite concerted efforts by NASW and other groups late in the session, **HB 1001** does allow FSSA to eliminate county DFR offices and replace them with "local" offices (local being defined as at the discretion of the administration). This language was initially given to House fiscal staff as "clean-up" language to complete the separation of FSSA and Division of Family and Children. It was not realized until after the bill came out of the Senate that this change had been made. Sen. Sue Errington spoke against this provision during the Senate debate on **HB 1001**, and Secretary Roob thereafter gave his verbal promise to Sen. Becker that he would not eliminate any county offices in the upcoming year, and that if legislation were put forward next year to reinstate the county office requirement, then he would support that bill.

SJR 1 also passed, which would, if passed again in 2009 or 2010, place a referendum on the ballot in 2010 for voters to approve or reject a constitutional amendment requiring the property tax caps in **HB 1001**, with certain exceptions for counties in which aggregate property tax revenues drop by 20% or more. The exceptions would expire December 31, 2019.

Following are bulleted highlights from **HB 1001**:

- An additional \$620 million in homestead credits, projected to reduce 2008 tax bills by a statewide average of about 31% from pre-rebate 2007 tax bills (the reduction is projected to be roughly 26% after the 2007 rebate);
- A new homestead credit paid on all funds - \$140 million for 2009 and \$80 million for 2010;
- A 1.5%, 2.5% and 3.5% cap for property taxes on homestead, rental properties and businesses in 2009. Those figures would each drop by 0.5% in 2010, allowing government units more time to prepare for predicted shortfalls stemming from the caps;

- A 1% increase in the state sales tax, from 6% to 7%, beginning April 1, 2008, to help pay for part of the property tax relief;
- An increase in the renter's deduction, from \$2,500 to \$3,000;
- A cap of no more than 2% per year from 2007 levels on property tax increases for seniors with individual incomes of less than \$30,000 or joint incomes of less than \$40,000 and for whose home's assessed value does not exceed \$160,000;
- An increase in the Earned Income Tax Credit, from 6% to 9%, and repeal of the expiration date;
- State assumption of the full cost for the remaining School General Fund;
- State assumption of the full costs for Child Welfare levies;
- Elimination of all State property tax levies (i.e., State Fair, DNR Forestry);
- State assumption for the full cost for incarceration of juveniles in State correctional facilities;
- State assumption of the full cost for Hospital Care for the Indigent;
- State assumption of responsibility for payment of 100% of the total cost of the Pre-1977 Local Police and Fire Pension Payments effective in 2009 (the State currently pays at least 50%);
- State assumption of the full cost for pre-school Special Education;
- \$120 million in circuit breaker relief for schools to offset the revenue loss for schools that have an impact of greater than 2% of the levy;
- Allowing schools to have a referendum to offset circuit breaker impacts;
- Allowing counties to increase local option income taxes (LOIT) to pay for budget increases, provide dollar for dollar property tax relief or pay for public safety costs;
- Transferring the assessing duties of Trustee Assessors to the County Assessor effective 7/1/08;
- Transferring to the County Assessor assessment duties of all Township Assessors in townships in which the number of parcels is less than 15,000 effective 7/1/08;
- Requiring a referendum to be held in the 2008 general election in all townships that include at least 15,000 parcels to determine whether to transfer the assessing duties of the Township Assessor to the County Assessor;
- Requiring higher certification requirements for township and county assessors;
- Requiring referendum for elementary school construction projects costing more than \$10 million (petition for remonstrance for projects costing less than \$10 million);
- Requiring referendum for high school construction projects costing more than \$20 million (petition for remonstrance for projects costing less than \$20 million);
- Requiring referendum for other controlled projects (projects backed by property taxes) with an estimated cost greater than \$12 million or 1% of assessed value (petition for remonstrance for projects costing less than \$12 million or less than 1% but least \$1).

Immigration bills:

No immigration bills passed, but there were heated debates before all bills ultimately died in conference committees. The anti-immigration legislation began with **SB 335** (Delph), which passed the Senate after being heard three times in the Senate Pensions and Labor Committee. As it left the Senate, **SB 335** contained provisions deputizing local law enforcement to act as federal immigration officers; created criminal sanctions against those who harbor, conceal or transport illegal immigrants; and imposing progressive disciplines against employers who knowingly hire illegal immigrants over 1500 hours per year, culminating in loss of their business license following the third offense. Complaints were to be filed by local prosecuting attorneys.

SB 335 was assigned to the House Public Policy Committee, where it was opposed by NASW, Hispanic groups, the Catholic Conference, the Jewish Community Relations Council, the Indiana Chamber of Commerce, the Indiana Manufacturers Association, and many others. The House substantially amended this bill to delete the creation of criminal sanctions against those transporting, harboring or concealing illegal immigrants, and modified the section sanctioning employers to include *all* employers, not just full-time employers, and imposing employer sanctions through an administrative law judge process subject to reversal by the Governor. In this form, **SB 335** passed the House.

Senator Delph then dissented to the House changes, sending this bill to conference committee. Conferees were assigned two days before session ended. However, the conference committee chair, Senator Weatherwax, was not comfortable passing any legislation this session without better knowing all

the ramifications, and Rep. Pelath, the House conferee, was not willing to make any further changes. Fireworks from Senator Delph ensued, but the bill died after failing to reach agreement.

Next year there will be bills again filed regarding a number of aspects concerning illegal immigrants, likely including denial of all public benefits and assistance. These issues may also receive hearing in summer study committees. The Indiana Manufacturers Association is now convening a coalition of all groups who opposed the anti-immigration bills, from both the human service and the business communities. NASW has been invited to participate and plans to do so.

SJR 7

NASW continued to join with many other groups opposing the constitutional amendment to ban gay marriage. Somewhat surprisingly, after so many years of intense focus, **SJR 7** took a low profile in relation to **HB 1001** and the anti-immigration bills, and died without an abundance of protest. This was due in part to the early announcement by Rep. Scott Pelath that he would not hear **SJR 7** again this year, and it was therefore understood early on that **SJR 7** would not pass the House. (You may recall that **SJR 7** died in the House last year after receiving a tie vote in Rep. Pelath's committee.)

The Senate initially took the position that it would not hear **SJR 7** this session unless it was first passed by the House. However, following some pressure, Senator Bray did hear the legislation in his Judiciary Committee, where NASW appeared along with others to testify in opposition. Compared to prior years, this hearing was short and low-key, almost perfunctory. Even though **SJR 7** did pass the Senate, the House stood by its initial contention that it would not again hear **SJR 7**. Rep. Pelath stated that he was not receiving as much pressure this year to hear the referendum, believing that this was due to major employers opposing the legislation (Lilly, Cummins, Dow Agro-Business, Anthem, and others), and a gradually increasing shift in public opinion against the amendment.

In order to be put on the ballot as a referendum, **SJR 7** had to pass in the 2008 session. Since it did not, future attempts to pass such a constitutional amendment would have to pass two separately constituted sessions of the Indiana General Assembly (once in 2009 or 2010, then again in 2011 or 2012).