



## **INDIANA CHAMBER OPPOSES NEW STATE VACCINE MANDATE BILL, BUT HOPEFUL FOR POSITIVE RESOLUTION**

The Indiana General Assembly is slated to vote on legislation when session reconvenes in January that could restrict businesses' ability to require the COVID-19 vaccine for employees. The Indiana Chamber – along with many others – testified in strong opposition to the preliminary draft at the November 23 public hearing. No one testified in support of the language as it stood. A bill was formally introduced to the Joint Rules Committee in early December and the content remains almost identical to the original draft.

### **Top agenda item for GOP:**

House Speaker Todd Huston (R-Fishers) has voiced how important this matter is for his Republican caucus and is labeling it the group's top focus by giving it the **House Bill 1001** designation. Similar vaccine-related measures have been passed by numerous GOP-controlled legislatures in direct response to the Biden administration's federal mandate requiring employers with 100 or more total workers to require the vaccine or weekly testing. Thankfully, Indiana's proposal doesn't go as far as some other states, but it is still too problematic for employers.

### **Indiana Chamber stance on vaccine mandates:**

Ideally, state government – as well as federal – would have stayed out of what private businesses can and cannot do regarding requiring COVID-19 vaccines for their workers, visitors and patients. Employers are in the best position of knowing what's best for the safety of those in their workplace.

### **Concerns with what the House bill currently includes/implies:**

- **Employers must pay for COVID-19 testing for workers who opt to not get vaccinated.** For some businesses, this provision will dramatically impact their vaccine policy because it would be too expensive to administer weekly testing for all of their unvaccinated workers. In fact, one large manufacturer shared with us how much of a burden that would be. They have roughly 300 employees who are not vaccinated, with weekly testing for each one at approximately \$150; the total cost after six months would be a staggering \$1.2 million!
- **The expanded religious exemption means many more people are likely to claim it.** The language also does not have the same exception that exists in federal law for employers who try to reasonably accommodate the religious exemption but determine the accommodation would be a significant disruption to their business activities. In other words, there is no legal remedy for businesses that find themselves in that predicament.
- **Guidance from the Centers for Disease Control and Prevention (CDC) is ignored.** The bill says those who have had COVID-19 are exempt from a vaccine mandate for six months. CDC urges those individuals to get vaccinated upon recovery.

- **It strongly discourages employers from implementing a vaccine mandate.** Between the testing costs noted above and the open-ended religious exemptions with no remedy for employers, it would put employers at a disadvantage economically and from a productivity standpoint. By taking steps to make it less likely for employers to continue or implement a vaccine mandate, this directly contradicts what the state has been promoting for months and months.

### **What has been excluded or removed from the bill:**

- **An outright prohibition on employers from requiring vaccines if they choose and giving employees the right to sue if they contract COVID-19.** These weren't in the draft and represent two of the business community's lines in the sand (paying for testing being the third). The Indiana Chamber communicated to Indiana's legislative leaders why these actions would be too detrimental and costly – and continue to do so!
- **Exemption for pregnant women or women contemplating pregnancy.** This also flies in the face of the latest CDC advice encouraging these women to get vaccinated. The broad way this was written could have opened things to any woman of child-bearing years. Due to many objections and questions, this provision has been removed since the initial hearing took place.

### **Federal law trumps state law:**

All of what's being proposed and considered will be null and void if the federal courts uphold the Biden administration's mandate since that would take precedent over state law. However, with the more conservative-leaning 6th Circuit Court of Appeals being assigned the federal mandate case, the odds seem to be in favor of it being struck down. Only time will tell, but it makes having the right state law in place all the more crucial.

### **What the Indiana Chamber is doing:**

Our objections and concerns are ongoing and we'll continue to convey those to HB 1001's author, Rep. Matt Lehman (R-Berne), and legislative leaders. The most urgent item we are focused on is removal of the provision calling for employers to pay for weekly testing. The Chamber's overall goal is to make this legislation as palatable as possible for employers.

### **Next step in the process:**

A public bill hearing took place in the House Employment and Labor Committee on December 16. The Chamber was there to express objections – on behalf of the business community – and push for positive modifications to HB 1001.

### **Contact us with questions:**

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