



Ted Waflart, M.D., President

*Welcome to ...*  
**Public Health INsights & INnovation**

**Public Health Legislative Update - 2016**

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**Indiana's SACCHO**  
State Association of County and City Health Officials



## Few Disclaimers Before We Get Started:

- The views expressed herein do not represent those of my employer and are solely my own opinion
- This presentation does not constitute legal advice and if you have specific questions or needs, please consult your attorney
- If I forgot any important disclaimers, they also apply
- And this presentation might contain bad jokes, so anyone with allergies you have been warned





## Agenda for this Webinar

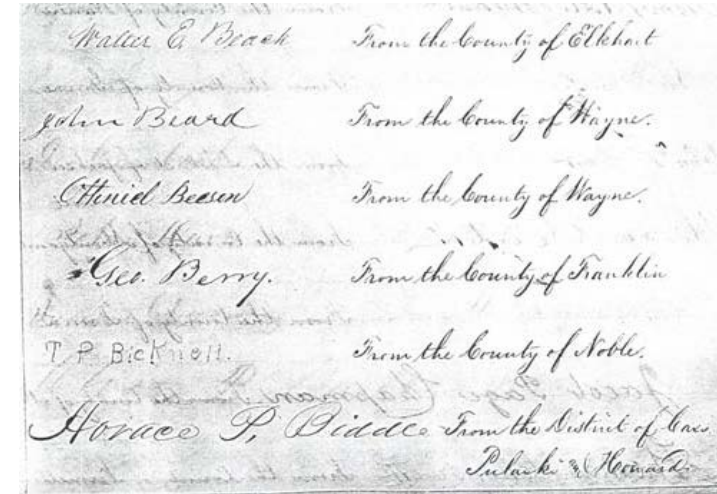
- Review the Constitutional and statutory authority for the Indiana General Assembly, and the law making process
- Update on legislation impacting public health in first half of the Legislative Session
- Questions and Answers





## A Quick Historical Review: Indiana's Constitutions

- Indiana has had two Constitutions: 1816 and 1851
- 1816 Constitution:
  - Jeffersonian, or Republican, approach to the organization of government, i.e., broad principles rather than technical specifics
  - Bicameral legislature with House of Reps. Serving 1 year terms and Senators serving 3 year terms
  - Annual legislative session
  - Simple majority to override Gubernatorial vetoes
  - 26 sections on organization and operation of General Assembly





## Calls to Change the Constitution of 1816

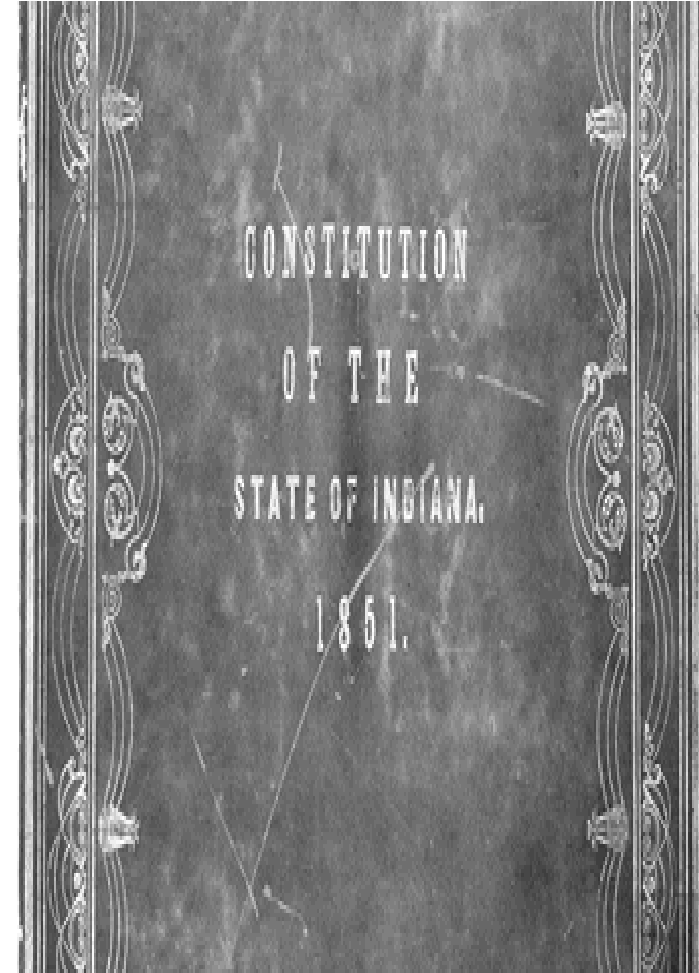
- Demands to change the Constitution quickly appeared
- Issues of concern mainly focus on:
  - Fiscal matters
  - Specific mechanism for governance
  - Local issues
- Or, more succinctly, the annual legislative sessions were unnecessary because the General Assembly cost too much and did too little of importance to justify annual meetings
- Took 35 years to muster enough votes to call for a new Constitutional Convention





## The Constitution of 1851

- Direct response to a multitude of issues:
  - Economic repercussions of State debt
  - Increasing amount of local and special legislation that consumed a majority of the General Assembly's time, i.e., "micromanagement" of local government
- Jacksonian in nature by democratizing many aspects of government
- Reduced legislature to biennial body
- Amended a number of times over last 100 plus years



McLauchlan, W. P. (2011). The Indiana state constitution: A reference guide. Westport, CT: Greenwood Press.



## Article 1, Section 23 – Equal Privileges and Immunities

Section 23. The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens.

Two part test for statutes that grant unequal privileges or immunities to differing classes of persons:

- Disparate treatment accorded by the legislation must be reasonably related to inherent characteristics which distinguish the unequally treated classes;
- Preferential treatment must be uniformly applicable and equally available to all persons similarly situated (*Collins v. Day*)





## Article Four of the Indiana Constitution

- Contains 30 specific sections concerning the organization and operation of the General Assembly
- Sec. 9 sets start date for General Assembly unless modified by statute
- Sec. 17 requires bills raising revenue to originate in the House
- Key provisions:
  - Sec. 18: Each bill “shall be read” on 3 days in each House
  - Sec. 19: A bill “shall be” confined to one subject and matters connected to that subject
  - Sec. 22: Prohibition on passing local or special laws
  - Sec. 23: All laws are general and operate uniformly throughout the State







## Art. 4, Sec. 19 – One Subject Matter

- Prevents practice of riders, or log-rolling, like what they do in Congress (*Dortch v. Lugar*)
- Linkage is allowed, as long as there is a reasonable basis for grouping provisions (*Smith Petro. Co. v. Ind. Dept. of Audit and Control on Ind.*)
- Appropriations bills differ in that many subjects can be considered due to finances (*A.B. v. State*)





## Art. 4, Sec. 22 & 23 – Prohibition on local, or special laws; all laws are generally applicable

- Included in the 1851 Constitution
- Enumerated list of 16 specific things, such as changing people's names, granting divorces, and other such local issues
- Populations classifications to mask special laws, as general, are unconstitutional unless deal with issues like Superfunds (*City of South Bend v. Kimsey*)





## Importance of Indiana Constitutional History

- History provides explanation for process and the way it operates
- Public health departments and local governments can become more aware of potential challenges to ordinances and interventions
- For example, the smoking ban controversies
  - Evansville and City of Indianapolis faced constitutional issues





## Short and Long Session of General Assembly

- Length of purpose of sessions defined by Statute
  - IC 2-2.1-1
- Long session must end by April 29
- Short session must end by March 14
- Bills must be presented to the Governor no later than 7 days since the end of session





## Bills Impacting Public Health in 2016

Number	Issue
HB1012	Requires ISDH upon request to issue an ID card indicating that a person has a developmental disability
HB1075	Municipal Sewer Issues – involves local health departments
HB1088	Changes death certificate procedures for when a person dies in an ED
HB1267	Requires inspection of meat products before sale
SB15	Establishes food desert grant and loan program within ISDH
SB163	State Department of Health Matters
SB187	Requires ISDH to ensure a statewide standing order for dispensing an overdose intervention drug is issued for Indiana.



## Other Bills Potentially Affecting Public Health in 2016

Number	Issue
HB1090	Local Emergency Planning Committee Changes
HB1102	Provides authority for DOC to make grants to county jails for evidenced based mental health and addiction treatment services
HB1157	Requires State Court Admin report certain drug related offenses to prevent sale to felons
HB1390/SB80	Allows Pharmacist to deny sale of pseudoephedrine
SB162	Requires hospitals to make available to be administered certain immunizations to hospital employees and contractors
SB271	Repeals the Commission for a drug free Indiana and establishes Indiana commission to combat drug abuse.
SB297	Requires Medicaid coverage for inpatient detoxification for treatment of opioid or alcohol dependence



## HB1088 – Death Certificate for Death in ED

- If person dies in ED and last attending physician is uncertain to the cause and manner of death, then that person should refer the case to the coroner for investigation
- The coroner should report the death to the local health officer upon investigation





## HB1267 – Inspection of Meat Products

- Food establishment may not sell game animal intended for human consumption unless an antemortem and postmortem inspection of slaughter has occurred by an authorized State inspection program
- Allows the State to adopt rules for this section







## SB163 – State Department of Health Matter

- Utilization of cancer registry information and limits local health department's access to the cancer information unless four conditions are met
- Expansion of child fatality review team's area of cases





## SB187 – Overdose Medication Standing Order

- Allows the State Health Commissioner or their designee to issue a standing order for Indiana for the dispensing of overdose medication
- Pharmacy must keep record of any prescription filled under this order for two years





Source: theconversation.com



Source: seattlechildrens.org



Source: theasianparent.com

# Questions, Comments?

## Presenter:



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Thank You!

- Fairbanks School of Public Health
- IN SACCHO
- Dr. Virginia A. Caine



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*Thank you for attending...*

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# Maintaining Administrative and Management Capacity