



STATE OF INDIANA  
OFFICE OF THE GOVERNOR  
State House, Second Floor  
Indianapolis, Indiana 46204

Eric J. Holcomb  
Governor

May 4, 2021

The Honorable Rodric Bray  
President Pro Tempore  
Indiana State Senate  
200 W. Washington Street  
Indianapolis, IN 46204

Dear Senator Bray:

By the authority vested in me as Governor of the State of Indiana pursuant to the provisions of Article 5, Section 14, of the Constitution of the State of Indiana, I do hereby veto Senate Enrolled Act No. 005 (SEA 5) enacted during the regular session of the 122nd General Assembly.

Throughout the pandemic, state and local leaders struck a careful balance between protecting both lives and livelihoods to ensure Indiana and our communities would come out of this pandemic as strong as possible. As a result, we now stand in an enviable position compared to many around the country. As evidence of this look no further than our 3.9% unemployment, \$2B in additional state revenues, and our ability to make transformational investments in local communities in areas such as education, economic development, and mental health.

Critical to this success has been the ability during the emergency to allow local health officers (LHOs) to use localized data to tailor their actions to their community's needs. It is hard to express the rapidity needed in the early days of the pandemic - particularly on the local level. One reason Indiana has weathered the storm so well is due to coordination with local health experts and the flexibility in law to be fast, nimble, and targeted. Also, the knowledge that local health officials were able to exercise this discretionary authority greatly informed the state's own day-by-day, sometimes hour-by-hour, emergency response.

LHOs and their departments must frequently make urgent, complex decisions to safeguard public health where time is of the essence and expertise is critical. Throughout the pandemic we have seen great examples of collaboration amongst elected officials and LHOs. In fact, there were only rare instances of LHOs working in a vacuum or elected leaders and LHOs not working closely together. Naturally, if this were not the case, I might better understand the impetus for some of the provisions in SEA 5.

Therefore, I am vetoing SEA 5 because I believe it will undermine the successful balance described above, restrict necessary flexibility in the law, and further undermine local responses to future public health emergencies.

Specifically, SEA 5:

- Limits the range of action local health officials can quickly take during an emergency by requiring approval for every local health order that is either more stringent or addresses different aspects than a state executive order;
- Changes the nature of hiring local county and city health officers by removing the exclusive authority from appointed local boards of health filled with qualified evaluators and instead grants the final health officer hiring decision to local legislative bodies;
- Shifts to a potentially cumbersome appeal process that threatens the possibility of dangerous delays for necessary local enforcement during any local or state-declared public health emergency; and
- Eases the ability to remove a local health officer where sufficient standards already exist in statute.

While our present focus is rightly on COVID-19, illnesses such as rabies, human immunodeficiency virus, legionellosis, Eastern equine encephalitis, meningococcal meningitis, and so many more can also be fatal and demand immediate public health intervention. In very critical instances, the spread of such infectious diseases will call for the enactment of a public health emergency by the governor or a local public health emergency declaration by local officials implicating many of the provisions in SEA 5 mentioned above.

Please keep in mind that my substantive disagreement with this bill does not mean I question all the underlying motives behind it. As evidenced above, right now it is critical that we maintain our local health expertise, flexibility and all tools needed to respond. We must not do anything that jeopardizes this as our heroic local health officials remain critical in the months to come as we accelerate our recovery and work to vaccinate many more Hoosiers.

The past 14 months have undoubtedly been challenging for all in public service. Despite these challenges, state and local public servants from all branches of government have risen to the occasion to protect the safety, health, and livelihoods of Hoosiers. I am confident that we can work together in the future to find consensus and avoid jeopardizing a successful recovery or future responses to unanticipated emergencies.

As we take stock of all our findings to evaluate the overall structure and function of our entire public health system, we will be carrying out this charge in partnership with mayors, county commissioners, health officials, legislators, universities, non-profits, and so many others that have helped us make it this far. Until that work is complete, I believe it is prudent to avoid any unnecessary disruption or wholesale changes to our existing local public health authorities.

Sincerely,

A handwritten signature in black ink that reads "Eric Holcomb". The signature is written in a cursive, slightly stylized font.

Eric J. Holcomb  
Governor