

**CONFERENCE COMMITTEE REPORT  
DIGEST FOR ESB 4**

**Citations Affected:** IC 36-7-11-23.

**Synopsis:** Historic preservation. Conference committee report for ESB 4. Provides the exclusive method for removing the designation of a historic district. Provides that a petition requesting the removal of a designation of a historic district may be filed with the legislative body of the unit by the owners of: (1) a building, structure, or site designated as a single site historic district; or (2) in the case of a historic district with two or more parcels, at least 60% of the owners of the real property of the historic district. Requires the legislative body to submit the petition to the historic preservation commission (commission) of the unit. Requires the commission to conduct a public hearing on the petition not later than 60 days after receiving the petition. Requires the commission to make findings and a recommendation to grant or deny the petition not later than 10 days after the public hearing. Requires the legislative body of the unit to grant or deny the petition not later than 45 days after receiving the petition from the commission. Requires the legislative body of the unit, before granting or denying a petition requesting the removal of a historic district designation, to take public comment and receive evidence in support of or in opposition to the petition. Provides that the legislative body may adopt an ordinance granting a petition by: (1) a majority vote, if the recommendation of the commission is to grant the petition; or (2) a two-thirds vote, if the recommendation of the commission is to deny the petition. Provides that if the legislative body does not act upon the petition within the 45 day period, the petition is considered granted or denied in accordance with the recommendation of the commission. Provides that if a petition is granted, the legislative body must adopt an ordinance to remove the designation of the historic district and record the ordinance with the county recorder. Provides that the designation of the historic district is considered removed on the date the ordinance is recorded with the county recorder. **(This conference committee report removes the following provisions concerning the historic rehabilitation tax credit (credit): (1) Transfers administration of the credit from the division of historic preservation and archeology of the department of natural resources to the office of community and rural affairs (office). (2) Provides that the credit applies to the preservation or rehabilitation of historic properties that have been vacant for at least one year. (3) Establishes four new methodologies for determining the amount of the tax credit. (4) Provides that a property's adjusted basis is not reduced by the amount of the credit if**

**a person is entitled to a federal low income housing tax credit. (5) Provides that qualified expenditures must exceed \$25,000 to qualify for a tax credit. (6) Increases the annual statewide cap on the tax credit to \$2,500,000. (7) Requires the office to reserve 25% of the available tax credits for projects for which qualified expenditures do not exceed \$500,000. (8) Specifies that the office may adopt emergency rules. (9) Voids a rule providing that the maximum amount of tax credits for a particular project is \$100,000. (10) Prohibits the office from reallocating available tax credits from year to year.)**

**Effective:** July 1, 2013.

# CONFERENCE COMMITTEE REPORT

**MADAM PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 4 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:  
2 SECTION 1. IC 36-7-11-23 IS ADDED TO THE INDIANA CODE  
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 2013]: **Sec. 23. (a) This section provides the exclusive method for  
5 removing the designation of a historic district. The owner or  
6 owners of a building, structure, or site designated as a single site  
7 historic district may sign and file a petition with the legislative  
8 body of the unit requesting removal of the designation of the  
9 building, structure, or site as a historic district. In the case of a  
10 historic district containing two (2) or more parcels, at least sixty  
11 percent (60%) of the owners of the real property of the historic  
12 district may sign and file a petition with the legislative body of the  
13 unit requesting removal of the designation of the historic district.**  
14 **(b) The legislative body shall submit a petition filed under  
15 subsection (a) to the historic preservation commission of the unit.  
16 The historic preservation commission shall conduct a public  
17 hearing on the petition not later than sixty (60) days after receiving  
18 the petition. The historic preservation commission shall provide  
19 notice of the hearing:**  
20 **(1) by publication under IC 5-3-1-2(b);**  
21 **(2) in the case of a historic district comprised of real property**

1 owned by fewer than fifty (50) property owners, by certified  
 2 mail, sent at least ten (10) days before the hearing, to each  
 3 owner of real estate within the historic district; and  
 4 (3) in the case of a single building, structure, or site designated  
 5 as a historic district, by certified mail, sent at least ten (10)  
 6 days before the hearing, to each owner of the real estate  
 7 abutting the building, structure, or site designated as a  
 8 historic district that is the subject of the petition.

9 (c) The historic preservation commission shall make the  
 10 following findings after the public hearing:

11 (1) Whether a building, structure, or site within the historic  
 12 district continues to meet the criteria for inclusion in a  
 13 historic district as set forth in the ordinance approving the  
 14 historic district map under section 7 of this chapter. The  
 15 determination must state specifically the criteria that are  
 16 applicable to the buildings, structures, or sites within the  
 17 district.

18 (2) Whether failure to remove the designation of the historic  
 19 district would deny an owner of a building, structure, or site  
 20 within the historic district reasonable use of the owner's  
 21 property or prevent reasonable economic return. Evidence  
 22 provided by the petitioner may include information on:

- 23 (A) costs to comply with regulations;
- 24 (B) income generation;
- 25 (C) availability of contractors to perform work;
- 26 (D) real estate values;
- 27 (E) assessed values and taxes;
- 28 (F) revenue projections;
- 29 (G) current level of return;
- 30 (H) operating expenses;
- 31 (I) vacancy rates;
- 32 (J) financing issues;
- 33 (K) efforts to explore alternative uses for a property;
- 34 (L) availability of economic incentives; and
- 35 (M) recent efforts to sell or rent property.

36 (3) Whether removal of the designation of a historic district  
 37 would have an adverse economic impact on the owners of real  
 38 estate abutting the historic district, based on testimony and  
 39 evidence provided by the owners of the real estate and  
 40 licensed real estate appraisers or brokers.

41 (4) Whether removal of or failure to remove the designation  
 42 of the historic district would have an adverse impact on the  
 43 unit's historic resources, and specifically whether it would  
 44 result in the loss of a building, structure, or site classified as  
 45 historic by the commission's survey prepared under section 6  
 46 of this chapter.

47 (d) Not later than ten (10) days after the public hearing, the  
 48 historic preservation commission shall submit:

- 49 (1) its findings on the petition; and
- 50 (2) a recommendation to grant or deny the petition;

51 to the legislative body of the unit.

1 (e) Not later than forty-five (45) days after receiving the historic  
2 preservation commission's findings, the legislative body of the unit  
3 shall:

4 (1) take public comment and receive evidence in support of or  
5 in opposition to the petition; and

6 (2) do one (1) of the following:

7 (A) Deny the petition.

8 (B) Grant the petition by adopting an ordinance that  
9 removes the designation of the historic district by:

10 (i) a majority vote, if the recommendation of the historic  
11 preservation commission is to grant the petition; or

12 (ii) a two-thirds (2/3) vote, if the recommendation of the  
13 historic preservation commission is to deny the petition.

14 The legislative body shall record an ordinance adopted under  
15 subdivision (2) with the county recorder not later than ten (10)  
16 days after the legislative body adopts the ordinance. The historic  
17 district designation is considered removed on the date the  
18 ordinance is recorded with the county recorder.

19 (f) If the legislative body of the unit does not grant or deny the  
20 petition within forty-five (45) days after receiving the historic  
21 preservation commission's findings:

22 (1) the petition is considered granted or denied in accordance  
23 with the recommendation of the historic preservation  
24 commission; and

25 (2) if the petition is considered granted, the legislative body  
26 shall, not later than fifty-five (55) days after receiving the  
27 historic preservation commission's findings:

28 (A) adopt an ordinance that removes the designation of the  
29 historic district; and

30 (B) record the ordinance with the county recorder.

31 The historic district designation is considered removed on the date  
32 the ordinance is recorded with the county recorder.

(Reference is to ESB 4 as reprinted April 12, 2013.)

**Conference Committee Report**  
**on**  
**Engrossed Senate Bill 4**

**S**igned by:

\_\_\_\_\_  
Senator Arnold J  
Chairperson

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Representative Dermody

\_\_\_\_\_  
Senator Yoder

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Representative Riecken

**Senate Conferees**

**House Conferees**