

**FINAL REPORT
OF THE
INTERIM STUDY COMMITTEE ON
LABOR, STATE AND HUMAN AFFAIRS
ISSUES**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

October, 2002

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A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

I. LEGISLATIVE COUNCIL DIRECTIVE

In 2002, the Legislative Council created the Interim Study Committee on Labor, State, and Human Affairs Issues and directed the Committee to study the following topics:

- (1) Worker's compensation issues as they impact the Amish community.
- (2) Economic development alternatives for French Lick and West Baden other than:
 - (1) gaming activity; or (2) transfer of an existing gaming license.
- (3) Matters concerning Native American issues as described in Senate Resolution 7 and the effectiveness of the Native American Council that currently serves as an advisory body to the Department of Natural Resources.

Senate Resolution 7 sets forth the following topics:

- (1) The need for a statutory study commission on Native American affairs.
- (2) The availability of job training programs for Native Americans.
- (3) The measures being taken to sustain Native American culture and heritage in Indiana.
- (4) The amount and diversity of research being conducted at Indiana's institutions for higher education concerning the historical, economic, and social affairs of Indiana's Native Americans.

II. SUMMARY OF WORK PROGRAM

The Committee met three times. At its first meeting, the Committee received testimony on and discussed economic development alternatives for French Lick and West Baden. At its second meeting, the Committee addressed Senate Resolution 7, concerning Native American affairs, and heard testimony on worker's compensation issues specific to the Amish community. At its third and final meeting, the Committee continued its discussion of these three topics and reviewed, amended, and approved by voice vote the final report of the Committee.

III. SUMMARY OF TESTIMONY

The following is a general summary of the testimony and comments received and made by the Committee. The Committee minutes are available on the Internet at <http://www.in.gov/legislative/interim/committee/icls.html>.

Worker's compensation and the Amish Community

Amish employers wish to be exempt from the statutory requirement to carry worker's compensation insurance on their Amish employees because the concept of insurance contravenes Amish tenets. Amish employers have indicated that they would be amenable to carrying worker's compensation insurance for non-Amish employees but that they would prefer to cover medical claims of Amish employees by raising money from within the Amish community. Exempting Amish employers from worker's compensation requirements has significant public policy implications that require balancing the philosophical and religious interests of Amish employers against the state's interest in ensuring that the cost of job-related injuries not fall on employees. In addition, exempting Amish employers from worker's compensation requirements might create an uneven playing field for businesses competing with Amish businesses. For example, a non-Amish business that operates with few or no work-related injuries but would nevertheless have to pay worker's compensation insurance premiums, whereas an Amish employer with no workplace injuries would have no premiums to pay. Conversely, the Amish employer might have no business advantage because the Amish employer would risk paying high medical bills without any insurance if work-related injuries occurred. Anecdotally, the most expensive bill to date in a particular Amish community has been \$640,000.

The Worker's Compensation Board of Indiana has worked with the Amish community to develop an alternative plan for worker's compensation coverage for the Amish that would be at least as comprehensive and inclusive as what current law requires. The Insurance Institute of Indiana and the AFL/CIO of Indiana both oppose exempting the Amish from the worker's compensation requirements.

Economic development alternatives for French Lick and West Baden, Indiana

The Legislative Council instructed the Committee to focus on economic development alternatives other than gaming.

The Orange County unemployment rate is 9.1%, double the state average. The median household income in Orange County is 22% less than the state median, and the number of Orange County residents living below poverty level is 33% more than the statewide average. In recent months, at least five factories have closed and 784 jobs have left the area. French Lick and West Baden have a prosperous economic and social heritage, but recent attempts to attract industry to the area have failed, in part due to the area's lack of suitable industrial sites and interstate highway access. Improvements in transportation, such as improving state highway 37 and extending I-69, are essential to the economic health of Orange County. Also important to the area is Crane Naval Defense Center, which annually injects \$2.2 million into the Orange County economy. Efforts should be undertaken to keep the federal facility open.

A significant part of Orange County's history and past economic success is tied to tourism. The area's tourism industry centered around the French Lick Springs Hotel and the West Baden

Springs Hotel. Given the area's successful history of tourism, the paucity of other industrial alternatives for the area, and the continued presence of both hotels, tourism is the area's only economic hope.

In recent years, the Cook Group of Bloomington, Indiana has spent approximately \$35 million renovating the West Baden Springs Hotel. Historic Landmarks Foundation of Indiana owns West Baden Springs Hotel and is a minority partner with Cook Group in the hotel's renovation. The hotel enjoys true statewide appeal, as evidenced by the 250,000 visitors over the last five years. Cook Group has attempted to find other uses for the hotel, such as a corporate training center or headquarters or as an antique mall but has had no success; thus, the hotel still has no functional use. Due to federal tax laws regulating the activities of not for profit corporations, the hotel cannot be used for profit-making activities; a prospective buyer, however, would not have the same limitation. The West Baden Springs Hotel is for sale for \$35 million; even after sale, renovation costs could approach twice that amount or more.

In contrast, the French Lick Springs Hotel, owned by Boykin Lodging, is open for business, but its current occupancy rate will not sustain the hotel. Boykin purchased the French Lick Springs Hotel in April 1997 with the goal of preserving its history and heritage. Boykin owns thirty-three hospitality and lodging properties across the United States. Boykin owns only one property other than the French Lick Springs Hotel that is located in a state (New Jersey) that permits gaming. The hotel employs 606 people, has a payroll of \$6.4 million, and is the only union hotel in Indiana. The hotel annually generates over \$1.5 million in tax revenue. The hotel contains 60,000 square feet, and the largest hall in the hotel is 25,000 square feet and holds 2,700 people.

The most significant impediment for the tourism industry in Orange County appears to be competition for convention and tourism dollars from other parts of Indiana. This is a particularly acute problem for the French Lick Springs Hotel. Current state policies allowing riverboat casinos with convention, lodging, and entertainment complexes have negatively impacted tourism in Orange County, as well as the hotels' viability. The hotels presented documentation of more than one million tourism dollars lost to Indiana's casino industry. Likewise, state policies facilitating the construction of convention centers throughout the state have contributed to the decline of tourism in the Orange County area. Despite this unfavorable climate, Boykin Lodging has continued to invest in the hotel and the community. Nevertheless, the French Lick Springs Hotel still requires \$50 million in additional capital investment to compete nationally with similar lodging and resort facilities.

Boykin had anticipated making a profit when it purchased the French Lick Springs Hotel, and its decision to purchase the hotel had in part been based on the availability of gaming and the fact that occupancy rates appeared to have bottomed out at 30% at the time of purchase. The hotel has lost guests to area casino and riverboat hotels and has not exceeded a 42% occupancy rate in the last decade. At this occupancy rate, the hotel is not profitable; at least 50% occupancy is necessary for a profit, and the hotel will not experience real returns until it achieves 65% occupancy, at which point it can reinvest its returns in capital. The hotel hosts ten to twelve

events each year, but recent events have not been successful enough to continue. Boykin would like to partner with the state and its agencies to provide internships and training at the hotel.

The citizens and public officials of Orange County believe that French Lick and West Baden are potential tourism and entertainment gold mines with two resorts and Patoka Lake. They stress that they simply want an opportunity to help themselves and their local economy. As a result, they have proactively implemented various programs and plans to revitalize the area and its economy. Orange County has implemented the county economic development income tax and the innkeeper's tax and has created a tax increment financing district but does not have a wheel tax or a food and beverage tax. Orange County also has undertaken an extensive and long range economic development planning process. However, French Lick and West Baden are in a unique position because of state policies establishing gaming in other areas of the state. Orange County officials should continue marketing the county's tourism image to attract much needed convention and tourism business. The officials also need to implement immediately specific plans and incentives rather than waiting for a long range economic development plan to unfold. The area also needs state assistance. The state spent significant sums of money to make Indianapolis the amateur sports capital of the world; French Lick and West Baden would certainly benefit from a similar influx of non-gaming dollars.

State agencies reported their activities in connection with the Orange County area and discussed possible actions that could revitalize the area. The Department of Workforce Development tries to invest in regional economies and to use incumbent workforces. At present, the Workforce Investment Board that serves the French Lick/West Baden area has a \$150,000 planning budget. The Department of Commerce discussed several statewide economic development incentives, including tax credits, training grants, and designation as a certified technology park. The Tourism Division of the Department of Commerce enjoys a good partnership with Orange County and French Lick. West Baden is featured prominently in the 2002 state travel guide and the fall travel promotions; French Lick will be emphasized in the 2003 travel promotions. The state tourism marketing budget is \$3.5 million; the marketing budgets of neighboring states range from \$7 million in Kentucky to \$71 million in Illinois.

Senate Resolution 7 and Native American affairs

Many Hoosiers are unaware of the Native Americans that currently populate Indiana and likewise have little accurate information on the history of Native Americans in Indiana. The goal of the Indiana State Museum's outreach program is to educate Indiana teachers about the history and culture of Native Americans in Indiana. The Eiteljorg Museum is working on a teacher's manual on Native American cultures in Indiana.

The American Indian Center is trying to meet the needs of Indiana's American Indian community through workforce development and health care access programs and by addressing cultural discrimination. The American Indian Center participates in the Department of Workforce Development's Workforce Investment Board. The Native American Council ("Council")

currently advises the Governor and has addressed issues including repatriation of human remains and treatment of Native Americans in state correctional facilities. The Council cannot adequately address issues faced by Indiana's Native American population because the issues fall outside the scope of the executive order that created the Council. Indiana's Native American community, which by its own count numbers over 39,000 individuals representing 103 tribes, perceives a need for a legislative commission on Native American affairs to address issues relating to Native Americans such as: (1) poor education; (2) low paying jobs; (3) health care; (4) loss of grant money for child care; and (5) war veterans and disabled individuals.

IV. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee finds that under current law, Amish employers must carry worker's compensation insurance on their employees and that the Amish community and relevant state agencies have demonstrated a willingness to develop an alternate non-statutory plan that achieves the dual goals of providing for employees of Amish employers coverage that is at least as comprehensive as current law requires while respecting the religious tenets of the Amish. Statewide labor and insurance groups oppose excluding Amish employers from worker's compensation requirements. As such, the Committee recommends that the Worker's Compensation Board of Indiana continue working with the Amish community, as well as labor and insurance groups, to develop an alternative plan that is acceptable to all involved parties.

The Committee finds that the communities of French Lick and West Baden, Indiana are at the crossroads of their prosperous culture and heritage and their bleak economic future. In recent years, these unique communities have suffered the loss of several industries that have not been replaced, and the outlook for replacing the lost industries is dim. Comprehensive studies of the area have determined that a healthy tourist trade is the only viable option to return French Lick and West Baden to their former glory. Since 1993, however, French Lick and West Baden have demonstrably lost tourism trade and the resulting revenue to neighboring riverboat casinos. Without an immediate and ongoing influx of revenue, such as the revenue lost to the neighboring riverboat casinos, the communities of French Lick and West Baden will continue to suffer. Orange County has produced a strategic economic development plan, and area residents and various state agencies are ready and willing to work together to implement the plan to save the communities of French Lick and West Baden. To that end, the Committee recommends that the General Assembly consider legislation that recognizes and remedies the revenue loss French Lick and West Baden has suffered from the departure of local industry and the competition for tourism from neighboring riverboat casinos. A possible solution could be some form of revenue sharing with the riverboat casinos.

The Committee finds that the Hispanic and Latino populations in Indiana grew from 98,788 in the 1990 census to 214,536 in the 2000 census. The Legislative Commission on Hispanic/Latino Affairs was created in 2002 in part due to the rapid and drastic increase in Indiana's Hispanic and Latino population as well as problems created by the English/Spanish language barrier. In the 1990 census, the Black or African American population in Indiana was 432,092; in the 2000

census, it was 510,034, or 8.4% of Indiana's population. The Commission on the Social Status of Black Males was established in 1993 at the recommendation of the 1992 interim study committee on the problems of black males in part because black males constituted a large population group that suffered disproportionate economic and social hardship. Official United States census figures show that between 1990 and 2000, the American Indian and Native Alaskan population in Indiana grew from 12,720 to 15,815, and American Indians and Native Alaskans now constitute 0.3% of Indiana's 6,080,485 citizens. In the 2000 census, 39,623, or 0.6% of Hoosiers reported being American Indian or Native Alaskan alone or in combination with one or more other races. Therefore, the Committee recommends the establishment of a commission on American Indian and Native Alaskan issues.

WITNESS LIST

Mary Alexander, American Indian Center
Jack Carnes, French Lick, Indiana
Mike Chrysler, Insurance Institute of Indiana
Adina Cloud, Senior Sales Manager and Director of Community Relations, French Lick Springs Hotel
Steve Ferguson, Cook Group
Sandy Fralich, Executive Secretary, Worker's Compensation Board
Lynne Fuller, Director of Tourism, Department of Commerce
Tosha Galaktionoff
Neil Gath, AFL/CIO of Indiana
Judy Gray, Executive Director of Orange County Economic Development Partnership
Corinne Ironshield
Rick Jones, State Archaeologist, Division of Historic Preservation and Archaeology, Department of Natural Resources
Dan Mathis, Assistant Director of Legislative Affairs, Department of Natural Resources
Patrick Murphy, Deputy Commissioner of External Affairs, Department of Workforce Development
Tricia O'Connor, Exhibition Director, Eiteljorg Museum
Walter Prosser
Richard Rowley, General Counsel, Department of Commerce
Dan Seitz, BoseTreacy Associates
Sally Tuttle, Member, Native American Council
Snow Wolf Wagner
Bill Wepler, Curator of Anthropology, Indiana State Museum
Reid Williamson, President, Historic Landmarks Foundation of Indiana
David Yoder, Middlebury, Indiana