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Kevin Mitchell
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I want to thank all of the county officeholders whose terms conclude at the end of 2020. On behalf of the Association of Indiana Counties (AIC), thank you for your service to the citizens of Indiana and to county government. I know some people decided not to run again and in other circumstances voters decided it was time to open a new door for you. Usually, in an election year I try to thank elected officials in person for their commitment to serving taxpayers. Usually, I have plenty of opportunities to thank members during various conferences and state called meetings. A global pandemic took away that option.

No matter what the future holds, you know you served during the most unusual time in a century. On social media, I have been able to read numerous accounts of news stories printed during the Spanish Flu. Then as now, masks were required or encouraged in public, businesses were closed, and everyday life was severely interrupted.

When you signed up to run for office, I am sure you never imagined you would need to lead your county residents, your office, and your employees through a pandemic. Did you ever imagine a primary and general election with public protection equipment for workers and voters? When you were sworn in to office, did you plan on purchasing plexiglass to be installed throughout the courthouse, ordering that people take their temperature before entering the courthouse, working remotely or learning how to use Zoom, WebEx or Microsoft Team? Could you ever imagine limiting the number of people who could personally attend a public meeting?

Through dedication, ingenuity, sacrifice, and personal risk you were able to manage and implement the essential services of county government. Thank you!

Hopefully, you leave office with a sense of accomplishment, some lifelong friendships and good memories. I hope the Association of Indiana Counties was able to help you in some manner during your years of public service.

I will especially miss five AIC past presidents who are leaving office at the end of 2020, Wayne County Councilman Chris Beeson, Marshall County Councilor Penny Lukenbill, Spencer County Clerk Sara Arnold, Spencer County Commissioner Al Logsdon, and Vigo County Commissioner Judy Anderson. Their leadership has helped me personally and improved the AIC as an organization.

For those continuing in office, more changes are on the way. County government has proven it can be flexible. The new year promises more changes and challenges; however, I am sure by working together we can meet whatever challenges 2021 will bring.

Most of all, I want to thank all county officials for the wonderful and exciting opportunity to direct your Association. Your staff at the AIC never wavered in their commitment to help you provide great service to your taxpayers. The entire staff stands ready to assist you and we want to visit with you in person in 2021. When it is safe, we look forward to seeing you during 2021 at our events and in your offices.
Looking back on March and April of 2019, onset of COVID-19 caused a rapid series of changes that significantly altered the processes by which government serves its citizens, leads its employees, and even how various parts of government interact with each other. Counties have to provide public services that Hoosiers rely upon (especially during emergencies); public health, public safety, elections, courts, transportation, emergency management, public records, and on down the list.

Providing these fundamental services, however, can potentially also create risks of legal liability in each of these categories which are exacerbated by COVID response. Because civil liability of governmental units also exposes taxpayers to the fiscal impact of such legal liability (and costs associated with defending civil cases), Indiana law treats governmental unit’s civil liability differently than private enterprise.

Over time, the Indiana Tort Claims Act (Indiana Code 34-13-3) has been created and amended to set a specific process for when, how, and why a unit of government can be sued. For example, the process requires a notice of a claim to be provided within 180 days of the loss, and
another 90 days for the unit to approve or deny the claim. If county officials are acting within their official capacity, they cannot be sued individually. Interest on any claim is set by statute at 6% if the claim is not paid within 180 days from the judgment or approval.

The Indiana Tort Claims act also sets out specific areas where governments have immunity from civil suit. For example, a county is not liable for the temporary condition of a public thoroughfare that results from weather. Governmental units cannot be sued for performance of a discretionary function. Similarly, governmental units cannot be sued for adoption and enforcement (or failure to adopt or enforce) a law.

Even more specific to the pandemic, Indiana’s emergency management statute (Indiana Code 10-14-3-15) provides broad civil immunity to the state and political subdivisions for actions relating to emergency management. This section covers a wide range of calamities, from earthquakes and floods to utility outages and terrorism. Importantly for 2020, it also covers epidemics. However, because COVID response has been embedded in every decision that a county has made since the first emergency declaration in March, it will be important, however, to make sure that all aspects of county operations are included in this immunity.

There is precedent for establishing liability immunity for governmental units and continuation of fundamental governmental services must be assured without threat of lawsuits which counties and taxpayers cannot afford. Application of immunity statutes to the broad sweep of counties’ COVID response will be one of AIC’s top legislative priorities for the 2021 session of the Indiana General Assembly.
Clinton County Embraces TRECS Program

By Jacque Clements, Director of Planning and Professional Development | JClements@indianacounties.org

AIC’s Tax Refund Exchange Compliance System (TRECS) debt setoff clearinghouse program allows local units of government to collect delinquent debt easily and efficiently through the withholding of a debtor’s personal Indiana income tax refund. One county utilizing the TRECS program fully is Clinton County.

The Clinton County Commissioners authorized the program for the Treasurer’s Office in the second year of the TRECS program and the Probation Department and Community Corrections Office quickly joined. Clinton Prairie School was the first county school to participate in TRECS and once they realized the benefits of the program, reached out to Frankfort Community Schools, Rossville Consolidated Schools, and Clinton Central Schools in encouragement to review the TRECS program. After a short information training session, the other schools were eager to enroll and have stated how successful the program has been for them as well.

Here are a few of the comments from those participating in the TRECS program.

“I feel the TRECS program has given the county another avenue to collect property tax from homeowners that are delinquent.”

– Clinton County Treasurer, Gina Brettnacher

“We could not be any happier with this opportunity! We use TRECS to collect outstanding debt mainly textbook rental. Like most schools we did not have a good way to collect outstanding textbook rental. We decided to participate in the TRECS program because we heard about it at a meeting we attended. We then registered and attended an information meeting for TRECS and thought this is too good to be true. We came back to the office and immediately started the paperwork to get signed up with TRECS. It has been one of the best decisions we have made. We now have a tool to collect outstanding textbook
rental. We are so happy with the program and wanted to share with others the benefits. Clinton Prairie could not be any happier with this opportunity!”
– Clinton Prairie School Corporation’s Secretary, Vicki Bailey

“What I like about TRECS is you enter all the information once and then the collection process begins! Not only has TRECS helped our corporation recoup/collect debts owed to us but it has made collecting so much easier.”
– ECA Treasurer of Rossville Consolidated School District, Irma Goris

“TRECS has proven to be very effective in collecting past due fees, some of which have been delinquent for over 10 years. Overall, we are pleased with the program and look forward to continued success in our debt collection thanks to the TRECS program.”
– Director of Clinton County Community Corrections, Brett Barton

“Adding TRECS to our process of debt collection here at Clinton Central School Corporation, has made collecting much more streamlined and successful. The revenues that we have recovered through the use of TRECS have exceeded any we’ve seen in our past practices.”
– Executive Assistant to the Superintendent at Clinton Central School Corporation, Joni Pearcy

In totality, over 500 refunds were offset equating to over $89,000 in delinquents collected for these local units. In 2021, three more small towns in Clinton County, will also participate in the TRECS program. This will bring Clinton County’s total up to 11 units participating in the TRECS program.

The TRECS program is a win/win for the local units of government and the debtor. It can be used to collect outstanding debt without the hassles of using the court system or an outside collection agency, saving the debtor higher collection fees and possible reporting to the credit bureau. The TRECS Clearinghouse is highly automated and is a very efficient way to successfully collect debt at no cost to the unit except a required notice mailing if there is a match. The debtor pays all administrative fees.

Please visit the AIC Website for more information about the program and direct inquiries can be sent to Jacque Clements at jclements@indianacounties.org.
All We Want for the Holidays:
A COVID-19 Vaccine and Questions Answered

By Erin Albert, MBA, PharmD, JD, PAHM, CPBS, CHVP
Kinetiq Health Pharmacy Practice Lead

and Brooke Salazar JD, PHR, Apex Benefits Associate General Counsel and Human Resources Consultant
With the holiday season comes what we’ve all been waiting for – a COVID-19 vaccine. It’s available and on the market. But now what? How do you prepare your workforce for the vaccine and what do you need to proactively consider now if you’re eventually going to roll out the vaccine to your workforce?

The CDC has determined who would be receiving the COVID-19 vaccine and in what order. As this article was being written, the FDA was actively in discussions regarding Emergency Use Authorization (EUA) of COVID-19 vaccines, and the vaccines were being produced, shipped and stored.

Bottom line: Whether or not an employer should offer the vaccine – or mandate it – is a big and complex question. The only thing we know for sure now is that there will be many attorney work hours in parsing out the potential employer liability questions regarding a mandatory vaccine.

While the legal landscape is complicated and several factors will need to be considered before employers may begin mandating vaccines, you should start preparing now. Stay informed regarding the outlook regarding vaccines and the distribution timeline. Most importantly, start discussions about whether or not you want to offer the vaccine to your employees and how it might be distributed.

**A BRIEF CLINICAL UPDATE ON COVID-19 VACCINES**

While there are several vaccine candidates in the race for COVID-19, the two that have been submitted for FDA consideration are: 1. The Pfizer/BioNtech messenger RNA (mRNA) vaccine, studied in 44,000 patients; and 2. The Moderna mRNA vaccine, studied in 30,000. Not far behind them in clinical trials are at least seven others.

Pfizer’s solution uses technology new to the world of vaccines. Typically, the actual virus itself is not in a vaccine (which is usually in the form of weakened, dead or noninfectious parts of the virus). In this case, a small part of the virus genetic code is included – the spike protein of the coronavirus. This technology will “train” the body to recognize the proteins if encountered in the future and stimulate the body’s immune system to destroy the virus.

The biggest challenge is in the storage and distribution of these vaccines. Pfizer’s requires ultra-low temperature storage (-95.8°F), which requires a special freezer that pharmacies and hospitals don’t normally have on hand. Furthermore, the vaccines will require two doses spread over a few weeks (Pfizer 21 days apart, Moderna’s 28 days apart).

For the latest on the vaccines and clinical trials, see the American Society of Health System Pharmacists COVID-19 Vaccine Tracker: https://www.ashp.org/COVID-19/Vaccines?loginreturnUrl=SSOCheckOnly.

**LEGAL QUESTIONS: MAY EMPLOYERS MANDATE VACCINES?**

While the promise of a vaccine is driving anticipation to get back to a “normal” work, school and personal life, at the same time, there are many implications to answering, “Can I, as an employer, mandate my employees get vaccinated?” The answer is that it’s complicated and it depends.

There are several sources that employers, including county and state governments, should look to in order to help answer this question including the EEOC, Title VII and the ADA.

**EEOC GUIDELINES ON TITLE VII AND ADA**

Both health screenings and vaccinations are considered medical examinations under the Americans with Disabilities Act (ADA). There must be a relationship between the job being performed and the vaccination itself for it to be required as a condition of employment.

If employees work with or serve people at high risk for COVID-19 (for example, healthcare workers and first responders), then mandatory vaccines could meet the ADA standards for vaccination as a condition of employment. So for your first responders, for example, a mandatory vaccine could possibly meet ADA standards.
With the COVID-19 pandemic, the EEOC updated its publication Pandemic Preparedness in the Workplace and the Americans with Disabilities Act that was originally issued in 2009 to deal with the H1N1 pandemic. Within this guide, the EEOC answers the question regarding mandatory vaccines.

The guide outlines exemptions that employees may obtain based on the ADA and the religious exemption under Title VII of the Civil Rights Act of 1964. An employee may be entitled to an exemption from a mandatory vaccination requirement. Upon receiving a notice that an employee’s sincerely held religious belief, practice, or observance prevents him or her from taking a vaccine, you as an employer must provide a reasonable accommodation for that employee unless it would pose an undue hardship to the operation of the business.

Within the question’s answer, the EEOC’s guide notes (at the time of publication) that there is no COVID vaccine. While the incoming presidential administration may shift the EEOC’s outlook on mandatory vaccines, there are some considerations that you may evaluate and prepare for now:

- Have you assessed how many employees may have religious and ADA opt outs?
- Are you properly trained in evaluating the undue hardship standards?
- Are managers properly trained in how to identify and answer questions regarding religious objections and ADA opt outs?
- Do you currently have forms and notice materials accessible to employees informing them of their rights?

PREPARING WORKFORCE FOR THE INTRODUCTION OF A VACCINE

In evaluating mandatory vaccinations or perhaps wellness incentives to get the vaccine, survey your employee population or connect...
with thought leaders to best understand the how the population views the vaccine. The following series of questions will gauge any interest in or apprehension about the vaccine, as well as offer insight into messaging that could most effectively encourage participation:

• Would employees be interested in a vaccination program?

• Would they be interested in engaging their family members in receiving the vaccine?

• What concerns do employees have about the vaccine?

• In what environment would employees be most open to receiving the vaccine?

It is vital to engage internal thought leaders about concerns or questions they may have in order to get the most buy-in from the workforce. However your vaccination plan is defined, consider that these key team members can serve as champions in helping to drive employee engagement, adoption and satisfaction. If you have questions, please consult your Human Resources and legal resources.

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nj快递
President’s Interview

An Interview with Local Author
Mary Lou Leavell Bernett

By David Bottorff, Executive Director | dbottorff@indianacounties.org

Q: Mary Lou, I have enjoyed reading your book, I Solemnly Swear, The Trials and Triumphs of an Elected County Official in Rural Indiana, 1984-1999. Your time as an elected official in Marshall County ended in 1999, the same year I was hired as the Legislative Director for AIC. However, because I worked for legislators representing north-central Indiana, our paths had crossed prior to me joining AIC. What prompted you to write the book now?

A: Actually David, I was still on the AIC board when you were hired, so I am very proud to have that as one of my last votes as a board member.

I had started and stopped writing it as a memoir to my sons many times over the years, then I started in earnest in 2018. That is when my husband encouraged me to write a full fledged book, instead of just memories for the kids. Then, in 2019 I was asked to chair the centennial celebration of the 19th amendment for the League of Women Voters of Moore County (NC). We had many events planned, so it took a great deal of my time, and I didn’t get back to the book until the 2020 celebration came to a screeching halt last March. I decided that it would be a great pandemic project, to see if I could get it finished. I wanted to give it to my sons for Christmas, then when we got the proof copy back from the printer I was so excited I couldn’t wait, so I gave it to them early, and let everyone else know it was out there.

Q: As clerk, you had two recounts in the 1986 election, the congressional race and the sheriff race. After the recount, the sheriff race ended in a tie vote. Elections are stressful for clerk’s every year, how much pressure was on you during the recount and the tie vote in the sheriff’s race?
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AT THE HEART OF COMMUNITY GROWTH
Q: You ran for county auditor after clerk, what were your thoughts on term limits then and has your position changed over the years?

A: Of course, I was still a part of the old holdover years, so my choice was limited since I had an extra year to serve. Auditor was the only option without having to give up a year as clerk, or lay out a year. When I was clerk I really didn’t like the term limits because I felt like it was a waste of well trained resources. After eight years I finally figured it out, determined I was pretty good at it, and still had to walk away from it. On the other hand, I think having new people come in can be an advantage, they sometimes bring new ideas, new staff, more energy, etc. These are tough jobs and unless you have been a deputy in the office, generally the new officeholder really has a lot to learn, so, I would say the term limits are outdated and should be changed. I was part of the group that tried to get the constitution changed in the mid-eighties. It made it to the ballot, but the citizens voted it down, I think because they didn’t want the sheriff to have unlimited terms, and that is probably a good thing.

It worked out okay for me because I did love being auditor as much as I loved being clerk. However, had there not been term limits I probably would have stayed many more years as clerk. So, all in all, I think the constitution should be amended to remove term limits to administrative offices. There was a time when I thought term limits were not necessary, that is what an election is for, but I have since determined that legislative office should definitely have term limits. Too often, they simply get too comfortable and serve their party instead of their people. Also, a good portion of the electorate making the choices is not always very well informed, to say the least.

Q: As we have several new elected officials starting in January, any words of advice for them to get involved in the associations and the importance of attending training and conferences?

A: Throughout the book I talk about the influence my predecessor had on me, and a great deal of that was introducing me to other officeholders as we attended the many meetings and conferences during my holdover years. I cannot emphasize enough how important that was and what a difference it made for me. I will always feel that I was a better officeholder for my county because of the meetings, seminars, conferences, and above all, friends that I made. It is an exclusive club, there are only ninety two of us in each position, so leaning on and learning from each other is worth it’s weight in gold.

Once, during a budget hearing while I was clerk, my council asked me if I would still go to the meetings if I had to pay for it myself and I answered an unequivocal YES, that is how important it is.

Q: How important were the friendships and professional relationships you created that were never about political parties but about advocating for good public policy?

A: They were incredibly important to me. I am a friendly sort, so I was able to get to know lots of people, not just other officeholders and their deputies, but many people in the associations, both statewide and in my districts. When I needed to call a state agency it was good having a friend to steer me in the right direction. I truly cherish those friends, many of whom moved past just the commonality of county government. Politics just never played a part in it – except in fun.

When my husband died, right after my term ended, I was so touched at how many of them came from all over the state to the funeral home to pay their respects and give me a big hug. It was heartwarming, incredibly kind, and thoughtful. I have never forgotten how much my county government friends meant to me, and I am fortunate on occasion to still be in touch with some of them.

Q: Finally, how can people purchase your book?

A: It is available on Amazon in paperback ($13.95) or Kindle ($9.99).
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