

Indiana Farm Bureau State Legislative Priorities 2010

Indiana Farm Bureau's positions on important public policy issues are defined and articulated through a complex process of grassroots involvement. The process starts at the county Farm Bureau level in each of Indiana's 92 counties and proceeds through a "Resolutions Committee" which evaluates the policy recommendations developed by the county Farm Bureaus. The report of this committee is then considered on a line-by-line basis by about 300 delegates to an annual policy setting session. The resulting document for 2010 is 52 pages in length and addresses a wide variety of issues.

While all these issues remain important to Farm Bureau and the policy document will provide guidance should it be necessary to take a position on any issue that it addresses, the Farm Bureau Board of Directors has the responsibility of identifying those policy issues of highest priority to the organization.

Accordingly, the Board of Directors of Indiana Farm Bureau has determined that the following issues are of greatest priority to Farm Bureau and its members in the 2010 session of the Indiana General Assembly. The Board determined these priorities after considering a number of factors including, but by no means limited to: (1) the potential impact of the resolution of the issue, financial or otherwise, on Indiana agriculture and Farm Bureau members; (2) the potential for precedent setting legislation that could have a far-reaching impact on agriculture; and (3) the likelihood that an opportunity to address the issue will present itself in the upcoming legislative session.

Property Tax Relief

While Farm Bureau continues to believe that Indiana's reliance on property tax to fund local government and schools is unfair and needs to be changed, we are deeply concerned that the property tax relief initiatives adopted by the General Assembly in 2008 focus too much on providing relief to homeowners at the expense of other taxpayers, including agriculture.

Farm Bureau believes there are three significant areas in Indiana's current property tax system that should be addressed:

- *Property tax caps and the accompanying Constitutional Amendment.*

The property tax caps enacted by the General Assembly in 2008 discriminate among property taxpayers. There is no justification, other than "good politics," for the property taxes on owner-occupied residential property to be capped at one level; for other residential property and farmland to be capped at a higher level; and for other business property and all personal property to be capped at a still higher level. In addition to the inherent unfairness of these arbitrary caps, the impact of those caps on the budgets of local units of government and schools, especially as the national economic cycle endures a prolonged down period, is still to be determined. Accordingly, we are absolutely opposed to the adoption of a second resolution to amend the Indiana Constitution to incorporate the property tax caps during the 2010 session of the General Assembly.

- *The Supplemental Homestead Deduction enacted in 2008 that will contribute to a shift of the property tax burden to farmland and other business property.*

In addition to capping homeowner's property taxes at 1 percent of the property's assessed value, the property tax relief act of 2008 included a significant supplemental deduction for such property. The supplemental deduction will provide additional relief to homeowners, the very taxpayers that benefit most from the services which those taxes provide. The supplemental deduction will reduce the net assessed value used to calculate tax rates. This will have the effect of increasing tax rates on all the property that comprises the net assessed value in each taxing district in the state. Since farmland, farm personal property, and other business property is not entitled to a supplemental deduction, this provision will force taxes on such property upward.

Farm Bureau feels the supplemental deduction should be revisited and revoked. We acknowledge that some may believe that there is a justification to exempt from property taxes a certain amount - such as the basic \$45,000 standard deduction - that represents the amount determined to be necessary to provide basic shelter in Indiana. However, the supplemental deduction enacted in 2008 provides for an additional deduction of 35 percent on the first \$600,000 of assessed value above the \$45,000 standard deduction and 25 percent of any additional assessed value. It will reward extravagance and provide the greatest relief to those taxpayers who, in all likelihood, need it least.

- *Farmland Assessment*

Since the court ordered "fair market value" reassessment of 2002, the assessment of farmland in Indiana has been the subject of considerable discussion and debate. Farmland is assessed by the "income approach" of determining market value. According to the Department of Local Government Finance, the income approach "restates market value by converting the future benefits of property ownership into an expression of present worth." In other words, the more money a property can be expected to generate in the future, the higher its market value under the income approach. Unlike assessments based on "value-in-exchange" the income "value-in-use" approach does not identify, nor is it intended to identify, what a particular farmland parcel might fetch in an arm's-length exchange on today's open market. Although the income approach of assessment is widely used in Indiana, there are some public officials who continue to find it difficult to accept this methodology for farmland. Assessing farmland other than on its "value-in-use" would have a number of negative ramifications, including its conversion to other uses with a corresponding loss of green space.

For the March 2009 assessment, the DLGF set the base value for an acre of farmland at \$1,250. This figure was derived by averaging data provided by Purdue for the six-year period from 2001 through 2006 regarding income from owner-occupied land and cash rent for land farmed by non-owners and then applying a capitalization rate calculated from information published by the Federal Reserve Bank of Chicago. This base rate is then further adjusted by a factor, based on USDA soil maps, calculated to reflect the productivity of the land. The productivity factor ranges from 0.5 for the poorest soils in the state to 1.28 for the best soils.

Without a change in the formula, it is expected that the base value per acre of farmland will increase to nearly \$1,700 or more in the next few years as the record commodity prices realized in early 2008 work their way through the six-year rolling average used in the formula. These prices, which were in part the result of market manipulation by speculative investors rather than the traditional market forces of supply and demand, will remain in the formula through taxes paid in the year 2017 unless some changes are made to the formula. Moreover, this will come at a time when other changes in the state's property tax system are working to shift a greater share of the overall tax burden away from homeowners and onto farmers and other businesses.

Farm Bureau believes that the formula for the assessment of agricultural land should be modified. At the very least, the General Assembly should direct the DLGF to use an Olympic average, in which the high and low years in the time span are disregarded in calculating the average. This would tend to minimize peaks and valleys and provide a more predictable base rate for farm taxes. We also encourage the General Assembly to explore new and creative means of farmland assessment that would be based on current value-in-use rather than historical trends. This might involve developing the base rate using a few identifiable key commodity price averages for the immediate year rather than the historical average now being used.

There will be some - in both the administration and the General Assembly - who will argue that since Farm Bureau did not openly oppose the current assessment formula with the General Assembly, we somehow lack the credibility to now seek its modification. This argument misrepresents Farm Bureau's actions during 2005 legislative session. Farm Bureau did acknowledge that we understood the ramifications of the formula; but we did not "sign off" on it. Furthermore, even if we had agreed to the formula in 2005, subsequent legislation has dramatically changed the entire property tax scenario in Indiana to the point that any such agreement would now be meaningless.

Local Government Reorganization

Efforts to reorganize local government may continue to receive the attention of the General Assembly during the upcoming session. The possibility of giving local voters the option to determine by means of referendum whether or not reorganization should occur has been raised on occasion. To assure that the interests of residents of the rural portions of a county are adequately protected, Farm Bureau believes any legislation establishing referenda to approve reorganization should provide that separate elections be held inside and outside of incorporated areas, and that the reorganization proposal must be approved by a majority of the voters in each area of the county.

In any restructuring of local government in Indiana Farm Bureau supports:

- Retaining the township trustee;
- Local county commissioners and county councils as now organized and oppose the idea of a single person as county executive;
- Prohibiting employees of a local government unit from serving as elected officials within the same local government unit; and
- The balanced reorganization of county government, other local government units and local government services after fiscal review that improves efficiency without diminishing rural representation or unnecessarily restricting agricultural practices, such as drainage issues, animal feeding practices, and manure applications.

We oppose:

- County-wide control of poor relief funds; and
- A single person as county executive.

Animal Care

In 2009, Farm Bureau was surprised by the initiative to redirect the resources of the State Board of Animal Health to police the activities of dog breeders in the state. The final result of the so-called “puppy mill” initiative was satisfactory from our perspective, but we remain concerned that militant animal rights activist groups will seek restraints on accepted animal agriculture practices as they have in other states. In other states, these initiatives have taken the form of ballot initiatives and have pitted local agricultural interests against well-funded national organizations. Since Indiana is not a ballot initiative state, any such efforts here would take the form of legislative initiative. Farm Bureau is opposed to any efforts to incorporate specific animal care standards into the Indiana code and will support legislation making it clear that the State Board of Animal Health clearly has the authority to establish care standards for livestock in Indiana.

Eminent Domain

Farm Bureau has long advocated for eminent domain laws in Indiana that genuinely protect property owners when their land has been targeted for public purposes. This is particularly true in cases where the ultimate beneficiary of the taking is a private utility rather than a public entity. A recent Indiana Court of Appeals decision, *Wymberley Sanitary Works v. Batliner*, affirmed the right of a private sewer utility to condemn property notwithstanding a trial court’s determination that the proposed taking was in bad faith because the utility did not consider other alternatives that would have used existing public rights-of-way. Farm Bureau will support any legislation which provides that condemnation should be considered only after all possible existing public property alternatives have been determined to be unsatisfactory.

Drainage

Farm Bureau believes that drainage issues are best resolved locally. We will oppose any legislative efforts to abridge the “common enemy rule” dealing with unchanneled rainwater in Indiana. Currently the only way to address issues involving the common enemy rule is for the aggrieved party to file a nuisance lawsuit. Farm Bureau feels that the county surveyor has the professional expertise to assist landowners in resolving disputes of this nature and will support legislation establishing a clear administrative process for the resolution of common enemy questions.

Grain Indemnity Fund and Grain Buyers and Warehouse Licensing and Bonding Law

Indiana has two laws, the Grain Buyers and Warehouse Licensing Law and the law creating the Indiana Grain Indemnity Fund, that are intended to assure the fiscal integrity of grain buyers and to protect grain producers in the event of a grain buyer’s financial failure. Participation in the Indemnity Fund by a particular farmer is voluntary, but once a farmer chooses not to participate he is prohibited from participating at a later date and his transactions are not covered by the fund.

Both of these laws need to be updated to remove some ambiguities and to assure that farmers who believe they have taken the necessary steps to protect themselves are, in fact, protected. This is due in part to the emergence of a biofuels industry in Indiana which represents an entirely new market for grain. Farm Bureau will support changes to update both these laws including provisions that will remove the distinction between “licensed” and “registered” grain buyers and establish an exemption for livestock producers who purchase grain exclusively in cash transactions.

For more information on these issues or Indiana Farm Bureau policy, please visit the IFB website, www.infarmbureau.org, or contact:

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