

# HOUSE BILL No. 1406

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-1-12; IC 4-6-2-12; IC 6-3-2-26.

**Synopsis:** Application of federal Affordable Care Act. Prohibits state action related to enforcement or implementation of the federal Patient Protection and Affordable Care Act (PPACA). Requires the attorney general to file a civil action for injunctive relief in certain circumstances. Requires a tax deduction for taxpayers paying a penalty in relation to PPACA. Repeals a provision concerning application for a state innovation waiver under PPACA.

**Effective:** Upon passage; January 1, 2014 (retroactive).

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## Harman, Burton

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January 16, 2014, read first time and referred to Committee on Ways and Means.

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Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

# HOUSE BILL No. 1406

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-1-12-4 IS REPEALED [EFFECTIVE UPON  
2 PASSAGE]. Sec. 4. The office of the secretary of family and social  
3 services and the department of insurance:  
4 (1) shall investigate; and  
5 (2) may apply for a waiver under;  
6 42 U.S.C. 18052 of the Patient Protection and Affordable Care Act.  
7 SECTION 2. IC 4-1-12-5 IS ADDED TO THE INDIANA CODE  
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
9 UPON PASSAGE]: Sec. 5. (a) **Notwithstanding any other law, an**  
10 **agency, officer, or employee of the state shall not, acting on behalf**  
11 **of the state, engage in an activity that aids any person in the**  
12 **enforcement of the Patient Protection and Affordable Care Act.**  
13 (b) **Notwithstanding any other law, an agency, a department, or**  
14 **other state entity, including the family and social services**  
15 **administration and the state department of health, shall not**  
16 **authorize an employee, a contractor, a vendor, or another person**



1 acting on behalf of the state to conduct or participate in an  
 2 involuntary maternal, infant, and early childhood in-home  
 3 visitation under:

- 4 (1) Section 2951 of the Patient Protection and Affordable Care  
 5 Act, as amended; or  
 6 (2) any subsequent federal law that refers to an entity or a  
 7 process established under the Patient Protection and  
 8 Affordable Care Act.

9 SECTION 3. IC 4-1-12-6 IS ADDED TO THE INDIANA CODE  
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 11 UPON PASSAGE]: Sec. 6. (a) As used in this section, "exchange"  
 12 means an American health benefit exchange established by a state  
 13 or political subdivision of a state under the Patient Protection and  
 14 Affordable Care Act.

15 (b) The state and political subdivisions of the state, including  
 16 counties, municipalities, and special purpose districts, shall not do  
 17 the following:

- 18 (1) Establish an exchange for the purchase of a health plan.  
 19 (2) Participate in or purchase a health plan from an exchange  
 20 established by a nonprofit organization.

21 (c) A health plan that is purchased or established in violation of  
 22 this section is void and must not be enforced by the courts of this  
 23 state.

24 SECTION 4. IC 4-6-2-12 IS ADDED TO THE INDIANA CODE  
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 26 UPON PASSAGE]: Sec. 12. (a) As used in this section, "PPACA"  
 27 refers to the Patient Protection and Affordable Care Act (as  
 28 defined in IC 4-1-12-1).

29 (b) If the attorney general has reasonable cause to believe that:

- 30 (1) a person is harmed by implementation of PPACA; and  
 31 (2) proceedings would be in the public interest;

32 the attorney general may bring a civil action for injunctive relief  
 33 against the person causing the harm to refrain from the  
 34 implementation.

35 (c) If the attorney general determines, in writing, that the  
 36 following protections and purposes are not substantially impaired  
 37 by a delay in bringing a civil action under subsection (b), the  
 38 attorney general shall, at least three (3) days before instituting the  
 39 legal proceeding, give notice to the person against whom the  
 40 proceeding is contemplated and give the person an opportunity to  
 41 present reasons why a proceeding should not be instituted:

- 42 (1) The Tenth Amendment to the United States Constitution



- 1 provides that the federal government is authorized to exercise  
 2 only those powers delegated to it in the United States  
 3 Constitution.
- 4 (2) Article VI, Clause 2 of the United States Constitution  
 5 provides that laws of the United States are the supreme law of  
 6 the land provided that they are made in pursuance of the  
 7 powers delegated to the federal government in the United  
 8 States Constitution.
- 9 (3) It is the stated policy of the general assembly that  
 10 provisions of PPACA grossly exceed the powers delegated to  
 11 the federal government in the United States Constitution.
- 12 (4) The provisions of PPACA that exceed the limited powers  
 13 granted to the Congress by the United States Constitution,  
 14 cannot and should not be considered the supreme law of the  
 15 land.
- 16 (5) The general assembly has the absolute and sovereign  
 17 authority to interpose and refuse to enforce the provisions of  
 18 PPACA that exceed the authority of the Congress.
- 19 (6) The Fourteenth Amendment to the United States  
 20 Constitution provides that the people are to be free from  
 21 deprivation of life, liberty, or property, without due process  
 22 of law.
- 23 (d) If a court issues a permanent injunction in connection with  
 24 an action filed under this section, the court shall award reasonable  
 25 costs to the state.
- 26 SECTION 5. IC 6-3-2-26 IS ADDED TO THE INDIANA CODE  
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 28 JANUARY 1, 2014 (RETROACTIVE)]: Sec. 26. (a) This section  
 29 applies to taxable years ending after December 31, 2013.
- 30 (b) As used in this section, "qualified federal tax liability"  
 31 means any liability to pay a tax or penalty imposed under Section  
 32 5000A of the Internal Revenue Code for failing to maintain  
 33 minimum essential coverage (as defined by Section 5000A(f) of the  
 34 Internal Revenue Code).
- 35 (c) A resident individual taxpayer is entitled to a deduction from  
 36 the taxpayer's adjusted gross income for a particular taxable year  
 37 if the taxpayer pays a qualified federal tax liability during the  
 38 taxable year.
- 39 (d) The amount of the deduction to which a taxpayer is entitled  
 40 in a particular taxable year is equal to the amount of qualified  
 41 federal tax liability that the taxpayer pays during the taxable year.
- 42 (e) To obtain the deduction provided by this section, the



1 **taxpayer must file with the department proof of the taxpayer's**  
2 **payment of a qualified federal tax liability.**

3 **SECTION 6. An emergency is declared for this act.**

