



April 10, 2015

IACI Needs Your Help on Annexation Bill!

This week was the last week for bills to come out of committee, so all the bills that did not receive a hearing in the second house are now dead. However, the language in a bill that has passed at least one house can be amended into another bill during conference committee.

We had a major victory this week in getting the binding county budget review language removed from HB 1433. Thanks to all of you who participated in the emergency conference call and made contact with legislators on this issue! IACI made several suggestions for language to allow volunteer firefighters to serve on the council for which they work, but none of our ideas were accepted. However, putting the county council in charge of city and town budgets when a volunteer firefighter serves on the municipal legislative body was not an agreeable option for us.

Now, we need your help on another important issue – annexation. SB 330 was passed out of committee this week with language that still needs a lot of work. We need your help to reach out to legislators and encourage them to amend the bill on second reading to make it better. We hope you have read the IACI Alert and will pick up the phone or write an email to all House members. See more below. This is URGENT!

Your Help is Urgently Needed!

Read this update on SB 330 and take action: Please call and email your state reps today!

SB 330 – Annexation (Boots, R-Crawfordsville; Negele, R-Attica)

SB 330 will be likely called down for 2nd Reading on Monday, April 13 in the House. This bill MUST be amended! Please urge all state representatives to **support only Representative Randy Truitt's 2nd Reading amendments** and vote NO on ALL OTHER amendments. It is especially important to urge all representatives to vote NO on Representative Thompson's Amendment #1 that voids all stakeholder compromises and returns the bill to the Senate's version.

We have made it very easy for you to assist. Here's is what you can do to help mitigate the terrible impacts SB 330 could have on Hoosier municipalities.

1. Read [this informational handout](#) on SB 330, including some valuable Q&A to assist you in conversations and correspondence with lawmakers.
2. Contact ALL House members and their staff by email or phone on Friday and tell them SB 330 must be amended to include the three provisions detailed in this summary of [helpful 2nd Reading Amendments](#) to be offered by Representative Randy Truitt.

Need a list of email addresses and phone number for all House members? [Click here](#).

3. Contact your local House members and their staff by email or phone and tell them what you think about SB 330 and how it could impact your community.
4. Consider coming to the Statehouse on Monday by 12:45 p.m. EST to **tell your legislators in person how much preserving reasonable annexation procedures means to your community.**
5. Can't make it? Watch your email on Monday for more information and the possible need to reach out once again to your lawmakers via email or phone.

Please keep the IACT legislative team updated on your conversations. **Thank you in advance for your assistance – your outreach really does make a difference!**

IACT Position: Support Truitt Amendments; Oppose All Other Amendments

Dark Store Assessment Language Needs More Work

SB 436 – State and Local Taxation (Hershman, R-Buck Creek, Brown, R-Crawfordsville)

SB 436 was amended in House Ways & Means last week and awaits further action on the House floor. The omnibus property tax bill had 27 amendments filed in committee. Two amendments of note were adopted including one that removes the elimination of small business personal property taxes and another that changes the assessment method for big box stores. The box store assessment language has been hotly debated since Sen. Hershman amended the bill a few months ago to address the “Dark Store” assessment issue that was sparked last December when the State Board of Tax Review (IBTR) ruled that an Indianapolis Meijer store, one of the most successful in the state, should have been assessed at a value of \$30 per square foot versus \$83 per square foot. This decision cost Marion County \$2.4 M in refund for the nine-year period challenged spanning 2002-2012. (Read news reports from a [Michigan article](#) and by the [IBJ](#).) Meijer used a controversial method known as the “Dark Store Theory” to challenge its assessed value, using a closed Lowe’s and vacant Walmart’s in other counties as comps to determine its value. Unfortunately, when the IBTR is deciding a case, it can only select the taxpayers’ appraisal or the assessor’s appraisal, no in between. Further, it cannot take into consideration the assessment method used for determining valuation that is prescribed to our county assessors.

The question at hand in SB 436 is how to define the assessment process clearly for special purpose properties, so that this “dark store theory” is not applied to the 17,000 other parcels in the state and thus drastically cutting property tax revenues for local units. House Republicans are supporting Meijer’s language that allows for the use of “dark stores” as comps. The language also is not retroactive, which puts millions of dollars of assessment appeal cases in jeopardy for local units. Meijer is arguing that retroactive language is unconstitutional. However, there is precedent for retroactive language in the assessment statute, passed as recently as 2012. If you speak with your legislators on this issue, it is important to encourage: 1) Action this session. We need a fix now, or our assessed values on these special use properties could be slashed in half, and 2) Language must clarify the assessment so that using a vacant store comp is not a factor used in determining assessed value, as location, investments and improvements matter. This bill will likely go to Conference Committee, where final language will be negotiated. Thanks to Sen. Hershman for his leadership on this issue!

IACT Position: More Work Needed

Thank You for Your Outreach Efforts! A Bill that Could Have Put Municipal Budgets under Binding County Review Was Amended in Committee

HB 1433 Volunteer Firefighters Serving in Elected Office (Mahan, R-Hartford City; Head, R-Logansport)

HB 1433 would have allowed volunteer firefighters to serve on the city/town council or as the executive, BUT the city/town budget would be subject to **binding county council review**. We opposed the binding review provision,

and thankfully the bill was amended in committee. HB 1433 now only contains a provision requested by the Sheriff's association which prohibits a relative of an active county police officer or the sheriff from serving as a member of the sheriff's merit board

The issue of binding review could come back this session during conference committee or as an amendment to another bill. Please watch your emails for an alert if your assistance is needed. Requiring binding county council review of municipal budgets is a major shift in public policy for our state – subjecting municipal budgets to county review diminishes the role of city/town council members, who are elected by the city and town residents to make decisions for the municipality with the best interest of the city and town in mind. **Thank you to those who made phone calls and sent emails. Your efforts were successful and very much appreciated!**

IAC Position: Oppose Binding County Council Review of Municipal Budgets; Support Existing Conflict of Interest Law

Bill Allows Money Saved for a Project to be Counted Separately in Controlled Project Determination

SB 251 Controlled Projects (Kenley, R-Noblesville; Torr, R-Carmel)

SB 251 passed the House Ways & Means Committee by a vote of 14-7. The bill makes an adjustment to the controlled project statute. Controlled projects are those payable by property taxes and depending on the amount of the project, before moving forward, the project is subject to either the petition remonstrance process or to referendum. This bill states that for projects other than a school corporation project, the cost of the project does not include any expenditures that will be paid by money accumulated or saved by the political subdivision. The political subdivision must segregate the money to be used for the project in a capital improvement or development plan. During this process a taxpayer may file a petition of remonstrance with the Department of Local Government Finance (DLGF). An amendment was added in committee that clarifies that the timeframe for such a petition begins upon the political subdivision's preliminary determination to issue bonds. Ways & Means Chairman Tim Brown (R-Crawfordsville) voted against the bill, and 2nd Reading amendments are likely.

IAC Position: Support

Clerk-Treasurer Vacancy Bill Heads to Governor

SB 514 – Clerk Treasurer Vacancy (Charbonneau, R-Valparaiso; Price, R-Greenwood)

SB 514 is a result of the Public Integrity Commission, which met last summer and fall under the direction of the Attorney General's office. During the commission's meetings, they dealt with the question of what to do if a town Clerk-Treasurer leaves office for any reason and the council is unable to fill the vacancy, after all efforts to replace the Clerk-Treasurer have been exhausted and public notice is provided. SB 514 gives towns options to fill such a vacancy by allowing a town council member to serve as ex-officio town clerk treasurer for the remainder of the term, without additional compensation. If a council member is serving as ex-officio town clerk treasurer, then it allows the town to either: 1) Enter into an inter-local agreement with another town clerk-treasurer, or 2) Contract with a CPA to assist the town legislative body member with the clerk treasurer duties for the remainder of the term. The bill passed Third Reading in the House on Thursday with a vote of 95-0. The bill was not amended in the House, and therefore does not have to return to the Senate for concurrence. The bill now may head to the Governor's office to be signed into law.

IAC Position: Support

Internal Controls Bill Passed the Senate after Being Amended to Give Units 60-Day Window to Avoid Budget Penalty

HB 1264 – Political Subdivision Internal Controls (Koch, R-Bedford; Holdman, R-Markle)

HB 1264 is aimed at improving internal controls for local government. The bill requires the legislative body of a political subdivision to “ensure appropriate training of personnel concerning the internal control system.” It requires the fiscal officer of a political subdivision to annually certify that certain internal controls of the local government are in place and that personnel have received the required training. Personnel is defined as an officer or employee of a political subdivision whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, state government, a political subdivision, or another governmental entity. Unfortunately, the bill contains a harsh penalty provision that ties compliance with this new training requirement and policy to budget approval. Specifically, if an SBOA audit finds that the political subdivision has not adopted the internal controls or that personnel have not received training, the SBOA shall issue a comment in its examination report. It also provides that if a subsequent audit finds that the political subdivision has not corrected the violations, the SBOA shall report it to the Department of Local Government Finance (DLGF). As a result, the DLGF is not permitted to approve the political subdivision's budget or any supplemental appropriations. Thankfully, Sen. Holdman successfully offered an amendment on 2nd Reading last week that gives local units a 60-day window to correct the offense, before the SBOA reports it to the DLGF. We appreciate this consideration so that units have the opportunity to correct the offense and therefore avoid budget losses. Many thanks to Rep. Koch and Sen. Holdman for their time listening to IACT and working on this proposal.

IACT Position: Support Internal Controls; Oppose Budget Penalty

Regional Cities Bill Passes Senate; But Funding Still at \$10 M per Year

HB 1403 Regional Cities (Rep. Torr, R-Carmel; Sen. Charbonneau, R-Valparaiso)

HB 1403 provides a mechanism in statute for regional partners to form a development authority that will work on long-term strategic plans and facilitate significant public-private investment. The idea is for the regional development authority described in HB 1403 to be the group that submits applications to the IEDC for Regional Cities funding. HB 1403 passed the Senate on Thursday by a vote 48-1, with Sen. Eric Bassler (R-Washington) voting no. The Senate amended HB 1403 in committee and again on 2nd Reading to: tie the Regional Cities program to more oversight by the General Assembly, require approval of IEDC grants by the State Budget Agency, and require the program be re-evaluated each budget year. Although the Senate proposed budget of \$10 M per year for Regional Cities does not restore the funding to the level the Governor proposed (\$42 M per year), one amendment offered successfully by Sen. Charbonneau could result in additional funding. Sen. Charbonneau's amendment allows the IEDC to utilize excess funds from the environmental remediation revolving loan fund (estimated to be \$10 M per year) for Regional Cities projects, if the project meets certain environmental related criteria.

IACT Position: Support

TIF Reporting Consolidation Bill Heads to the House Floor

SB 567 Redevelopment Commissions and Authorities (P. Miller, R-Brownsburg; Truitt, R-West Lafayette)

SB 567 is an IACT initiative bill. It was passed out of the House Government and Regulatory Reform Committee on Tuesday after receiving a minor amendment. The bill aims to consolidate the multitude of TIF reporting deadlines to make reporting easier and more efficient for local governments. As amended, the bill allows a redevelopment commission or authority to hold its organizational meeting on *any* day that is not a Saturday, Sunday or legal holiday (current law requires the meeting to be held on the *first* day of January that was not a Saturday, Sunday or legal holiday). It clarifies that the fiscal officer of a redevelopment commission may disburse funds only after the disbursement is approved by the commission. Thanks to the members of the Redevelopment Association of Indiana for helping with this bill!

IACT Position: Support - An IACT Initiative Bill

Public Records Bill Moves to Third Reading Calendar

SB 528 Preservation of Public Records (P. Miller, R-Brownsburg; Lehman, R-Fort Wayne)

SB 528 passed out of the House Government and Regulatory Reform Committee on Tuesday and passed second reading this week. The bill changes the name of the state commission of public records to the “Indiana Archives and Records Administration” and it includes several provisions regarding the administration’s powers to manage public records. The administration will be in charge of administering the laws on preservation of public records for political subdivisions. It will also advise the office of technology with respect to records management and archival principles as applicable to the purchase of electronic content and information management systems. The bill also contains a provision regarding death certificates. It states that a certificate of death received by a local health department or the state department of health is a public record that, upon request, must be made available for inspection and copying if certain conditions are met.

IACT Position: Neutral

Bill Modifying the Sale of Certain Nonsurplus Municipal Property Passes Senate

HB 1505 – Sale of Nonsurplus Municipal Water Utility Property (Rep. Van Natter, R-Kokomo; Sen. Eckerty, R-Yorktown)

On April 9, HB 1505 passed out of the Senate with a final vote of 48-0 and has been sent back to the House where the author can either concur on the changes made in the Senate and the bill will be sent to the Governor or the author can dissent on the changes, which would send the bill to conference committee. The Senate amendment effectively exempted municipally owned gas utilities from the remonstrance process that water and wastewater utilities are required to undergo when selling certain property. HB 1505 changes several provisions concerning the sale or disposition of nonsurplus municipally owned water and wastewater utilities. This bill changes the number of required signatures for a petition opposing a sale or disposition of water or wastewater utility from 2% of the total vote cast at the last election for Secretary of State in the election district to a formula based on the number of registered voters in the municipality. It also gives the legislative body more time to hold a public hearing after the appraisal of the property has been received and requires a remonstrance petition to be filed within 30 days after the ordinance is adopted by the legislative body.

IACT Position: Neutral

Increase in Fines for Railroads that Block Grade Crossing Moves Through Committee

SB 27 – Obstructions at Railroad-Highway Grade Crossings (Sen. Kruse, R-Auburn; Rep. Smaltz, R-Auburn)

On April 9, the House Committee on Roads and Transportation voted SB 27 out of committee with a final vote of 9-2. SB 27 imposes a minimum judgment of \$200 on a railroad corporation for blocking a railroad crossing and urges a summer study committee to investigate the topic of blocked railroad grade crossings. Under current law, a railroad corporation can be fined \$50 if it blocks the grade crossing for more than 10 minutes unless the train cannot be moved due to circumstances over which the railroad corporation has no control.

IACT Position: Support

Water Threat Mitigation Goal of Reporting Requirements

SB 312 – Tank Reporting and Water Threat Minimization (Sen. Charbonneau, R-Valparaiso, Rep. Koch, R-Bedford)

On April 8, the House Committee on Environmental Affairs amended SB 312 before passing it with a final vote of 10-0. With exceptions, this bill requires the owner or operator of an above ground storage tank (AST) that is designed to contain more than 660 gallons of liquid to report certain information about the AST to the

Indiana Department of Environmental Management (IDEM) before January 1, 2016. It also requires a person who is responsible for operation of a public water system that uses surface water as a source of drinking water to develop a surface water quality threat minimization and response plan for the public water system. The plans must be submitted to IDEM when completed and updated every 5 years. The plans are required to include: (1) An identification of critical drinking water intake facilities, including specific locations of wells, intake structures, and critical drinking water distribution infrastructure; (2) An identification of potential threats to raw water quality; (3) An assessment of the risks posed by potential threats identified; (4) A communication, education, and risk minimization plan; and (5) An incident response plan.

IACT Position: Support

Language Added to Ensure State Agency is Responsive to Locals

HB 1300 – Ordinances Related to Building and Housing Laws (Rep. McMillin, R-Brookville; Sen. Boots, R-Crawfordsville)

On Thursday, the Senate passed HB 1300 with a final vote of 38-11. In addition to moving current rules into statute, this bill also prohibits a county, municipality, or township from adopting an ordinance that requires or would have the effect of requiring a landlord to participate in a Section 8 program of the federal Housing Act of 1937 and prohibits a state agency or political subdivision from requiring a person or entity to obtain or maintain, or both, a license to install or maintain a low-voltage thermostat of 50 volts or less. HB 1300 specifies an ordinance or other regulation adopted by a political subdivision that qualifies as a fire safety law or a building law must be submitted to the Fire Prevention and Building Safety Commission (Commission) for review within 30 days of adoption by the political subdivision. The ordinance is not effective until the Commission approves or denies it. IACT was successful in ensuring the Commission is responsive to locals by adding language that the Commission must specify why the ordinance was denied as well as a provision that the ordinance is automatically approved if the commission does not approve or deny the ordinance or regulation within four commission meetings.

IACT Position: Neutral

Your Rental Registration and Inspection Program Could be Impacted

HB 1165 – Rental Registration and Inspection Programs (Rep. Soliday, R-Valparaiso; Sen. Holdman, R-Markle)

HB 1165 was passed out the Senate Committee on Commerce and Technology on April 9 with a final vote of 8-0. Proponents of this bill argue it clarifies the legislative intent from last year's rental registration and inspection law by limiting the definition of a rental registration or inspection program to include only rental housing. It also states that the definition does not include a general housing registration or inspection program or one that applies only to rooming houses and hotels. HB 1165 is retroactive to July 1, 2015.

IACT Position: Oppose

Common Construction Bill Amended in Committee

HB 1019 – Common Construction Wage and Public Works (Rep. Torr, R-Carmel; Sen. Yoder, R-Middlebury)

The Senate Committee on Tax and Fiscal Policy amended HB 1019 before passing it out with a final vote of 8-5 on April 8. The measure eliminates the 5-member board required under law to establish wages on public work projects costing \$350,000 or more. HB 1019 prohibits a public agency from establishing, mandating, or otherwise requiring a wage scale or wage schedule for a public works project unless required by state or federal law. The bill implements several new requirements on contractors that work on public works projects and allows a public agency to exclude contractors in violation of the new requirements for period not to exceed 48 months.

IACT Position: Neutral

Senate Committee Passes Budget Bill

HB 1001 – State Biennial Budget (T. Brown, R-Crawfordsville; Kenley, R-Noblesville)

The Senate Committee on Appropriations passed its version of Indiana's budget for the next two years out of committee with a final vote of 8-3 on April 9. The budget reflects the Indiana General Assembly's focus of education funding as it increases K-12 funding by 2.3% each year, which translates to an increase of \$446M over the biennium. The Senate proposal also provides \$151M over the biennium for community corrections and increases funding for offender mental health and addiction treatment by \$30M over the biennium. It also allows for up to \$200M each year to be transferred from the state General Fund to the Major Moves 2020 trust fund. This fund is used exclusively for state highways. The Motor Vehicle Highway Account, where most of local road funding is transferred from, receives a slight increase in FY 2016-2017 and funding for the Regional Cities initiatives provides \$20M over the biennium compared to the Governor's requested amount of \$84M over the biennium. HB 1001 also increases the fee the State Board of Accounts charges for auditing local units from \$45 a day to \$175 a day. It provides for a corporate income tax credit for certain hospitals equal to 50% the property taxes paid in Indiana for property used as a hospital. It also establishes a matching grant program for construction projects that extend the Chicago, South Shore and South Bend Railway. Because the House and Senate will pass budgets that differ, HB 1001 will likely go to conference committee.

IACT Position: More Work Needed

2015 Legislative Dates & Deadlines

Tuesday, April 14

2nd Read deadline in second house

Wednesday, April 15

3rd Reading deadline in second house and concurrence deadline for conference committee reports

Wednesday, April 29

Last day of session