



April 30, 2015

Several Critical Bills Wrap Up Late on Last Day of Session

Legislators worked until midnight yesterday to wrap up the 2015 legislative session. Several issues critical to IACT were still pending until just before the House and Senate adjourned Sine Die. Thankfully, some helpful language passed in SB 436 to address the assessment challenges by big box retail stores, Meijer and Kohl's. If something was not done legislatively to address the court rulings in these two tax appeal cases, locals stood to lose about \$120 Million annually and \$50 Million would have been shifted to other taxpayers. As for the annexation issue, thanks to those of you who reached out to your legislators on SB 330! SB 330 took many twists and turns at the last moments while the Senate and House hashed out a compromise. Where the bill originally started and where it ended was a big improvement from our point of view, however, we can tell you that the annexation process for cities and towns will now be much more difficult. More study is yet to come on the annexation issue. Volunteer firefighters also regained the right to serve on city/town councils or serve as the executive. The caveat to a majority of volunteer firefighters serving, however, is unbearable and we must work to get it changed next year. Read more below about the top bills that were finalized yesterday and stay tuned for a complete review of the session when IACT releases its 2015 Statehouse Report.

Big Win on Dark Store Issue for Local Government and Other Taxpayers!

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

Legislators said reaching an agreement on how to address the dark store issue was more difficult than negotiating the budget! Fortunately, all parties came together yesterday under the leadership of Sen. Brandt Hershman (R-Buck Creek), Rep. Tim Brown (R-Crawfordsville) and Rep. Todd Huston (R-Fishers). Language passed that limits the use of vacant or “dark” stores as comps when determining assessed value of commercial non-income properties (with an effective age of ten years or less) to one year vacant or five years vacant for industrial properties, along with some other excluding factors such as: restrictive uses, arm’s length transactions and change in use. These new limitations apply moving forward and to appeals currently before the PTBOA and IBTR, and will help ensure stores that have been vacant for many years are not used as a way to lower the value of properties in-use. The bill also changes how assessed value is determined for “big box” stores moving forward so that for first ten years of effective age, a cost approach is utilized and clarifies that that land value must be determined separately from the structure. One of the challenges brought to light as a result of the Meijer case is that in making its decision, the IBTR may only choose one appraisal: the taxpayer’s or the assessor’s. There was a large difference (more than 40%) between Meijer’s assessed value claim and the Marion County Assessor’s claim. However, the IBTR could only choose one as the victor. SB 436 requires any pending appeal (as of May 1, 2015) settle or go to mediation if there is a difference of 25% or more between the appraisals. Finally, there is positive TIF language in the bill that specifies a redevelopment commission may enter into a written agreement with a taxpayer in which the taxpayer waives review of any assessment of the taxpayer’s tangible property that is located in an allocation area.

Without these changes, one [study conducted by Policy Analytics](#) projected local units stood to lose up to \$100 M per year in tax revenue with a \$50 M shift to other taxpayers, if the “dark store” theory was applied to all commercial properties. This issue will likely be discussed more during the interim in study committee. We appreciate the action of the General Assembly with SB 436!

SB 436 is the omnibus property tax bill and also has a provision which eliminates the small business personal property tax for taxpayers with less than \$20,000 of total business personal property in a county. It requires that the owner seeking the exemption to submit a certification that is notarized and signed under penalties of perjury. This tax cut is projected to result in a net loss to local units of around \$8 M annually. To help offset the loss, legislators passed a provision in HB 1472 that will allow a county council to adopt a replacement fee up to \$50.

Annexation Bill Passes in the Final Hour of Session

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

The push to reform annexation began last summer when the Interim Study Committee on Government took up the issue. After hearing nine hours of testimony, the Study Committee made 18 [recommendations](#) to the Indiana General Assembly. Even before legislators reconvened in January, there was a strong push to pass an annexation bill this year.

At the beginning of session, six bills were filed on annexation. As you may recall, in the first half of session two bills were moving, including SB 330 and HB 1561. The Senate and the House proposals took vastly different approaches to annexation reform. While HB 1561 made annexation more difficult and remonstrance easier, SB 330 turned the process on its head. At the 11th hour of the deadline for House Bills to pass the House, HB 1561 died when it was not called for a vote due to unexpected opposition from the Farm Bureau. That same week in February, SB 330 passed the Senate in a form that would have severely limited the ability for cities and towns to grow.

As it passed the Senate, SB 330 was a terribly concerning proposal that would have changed the process for annexation entirely, requiring cities and towns to get 51% of landowner's signatures to support the annexation in order for the annexation to proceed. It would have eliminated remonstrance waivers (including making void existing waivers) and forced the annexing municipality to assume all county debt when annexing county infrastructure or improvements. When SB 330 was debated in the House, IACT was once again engaged in the process, and legislators successfully amended the bill to provide a more balanced approach. Sen. Boots would not accept the House passed version of SB 330, therefore the issue went to Conference Committee, where for the last week, the House and Senate attempted to reach an agreement on the final form of the bill. With just a few hours left before Sine Die, late last night that agreement was reached. SB 330 passed the House at 10:54 p.m. with a vote of 87-0. It passed the Senate at 11:47 p.m. by a vote of 43-6.

With the passage of SB 330, annexation will be much more difficult and costly for cities and towns. There are many provisions we oppose, but the ability for smart growth and economic development remains intact, with more work ahead!

SB 330 does the following:

- Requires six months of upfront community outreach by the municipality before an annexation ordinance may be adopted;
- Requires more detailed information in the fiscal plans;
- Lowers the threshold for remonstrance signatures needed to go to court from 65% (current) of landowners signatures to 51% of landowner signatures (or 60% of assessed value);
- Removes the court – stops an annexation altogether – if at least 65% of landowners sign a remonstrance petition (or 80% assessed value);
- Provides an Economic Development Protection Provision that allows an annexation involving an economic development project to go to the courts, even if 65% of landowners sign a

remonstrance petition, with a delayed effective date of January 1, 2017 (See below for more on this provision!)

- Requires the municipality to provide a place for remonstrance petitions to be signed;
- Requires remonstrance petitions be filed with the county auditor instead of with the courts;
- Prohibits a court in a remonstrance hearing from considering personal finances or business finances of an owner or resident of land as a factor for determining whether the annexation will have a significant financial impact;
- Prohibits any amendment of a fiscal plan once a remonstrance petition is filed, without consent of 65% of the remonstrators;
- Allows remonstrators that prevail to recover reasonable attorney's fees from the municipality up to \$37,500;
- Makes the agricultural exemption apply for all annexations so that farmers do not pay any municipal taxes if they are annexed and their property is classified agricultural for property tax purposes;
- Limits remonstrance waivers going forward to 15 years;
- Requires a municipality with existing remonstrance waivers with a deed recorded after June 30, 2015 to provide written notice to property owners that the waiver exists;
- Requires the municipality to assume county debt or make payments to the county in certain circumstances;
- Requires the County Executive to approve an annexation of any land property by a County RDC;
- Specified circumstances under which a public rights-of-way of a public highway may be annexed; and
- Requires a municipality to notify video service providers of the addition of property as a result of annexation for the purpose of franchise fee payments.

The Economic Development Protection Provision is extremely important to ensuring a few landowners are not able to stop an economic development project without due process. Unfortunately, this provision became a negotiating point at the end. Language was added that may be problematic. However, the provision was delayed until January 1, 2017, so that the issue can be studied further. We greatly appreciate the support of so many businesses and organizations who signed on to this [Statement of Support!](#) There is more work to be done on this provision, and we will be calling on you to help during the interim.

As we wrap up on annexation for now, check out this [letter](#) from IACT's Matt Greller that encouraged a balanced approach. We thank the many members and legislators who worked tirelessly on this issue with that balance in mind, especially Rep. Sharon Negele (R-Attica), Rep. Randy Truitt (R-West Lafayette), Rep. Kevin Mahan (R-Hartford City), Sen. John Broden (D-South Bend) & Sen. Ron Alting (R-Lafayette).

Volunteer Firefighters Regain Right to Serve but at a Severe Cost to City/Town Budgets - Some Cities Will Now Be Required to Do GAAP Reporting

HB 1264 State and Local Government Matters (Koch, R-Bedford; Holdman, R-Markle)

HB 1264, an internal controls bill which will require locals to do more training and checks to protect public funds, was amended during conference committee to add language from SB 446 and HB 1433. The concept included from SB 446 requires municipalities with populations of 75,000 or greater to file annual reports according to GAAP/GASB standards by certain graduated deadlines. If the reports are not filed accordingly, the units would not be permitted to issue bonds. We opposed this proposal because we think it needed further study on what SBOA “accepts” as GAAP reporting and the cost impact on the units. In addition, language was added from HB 1433 which would reverse the conflict of interest statute for volunteer firefighters and allow them to serve on a city/town council or as the executive. If a volunteer firefighter serves, he or she is not permitted to vote on the city/town budget and if there is a *majority* of volunteers on the council, the unit’s budget may not change while the majority exists. The caveat to adjusting a budget when a majority of volunteer firefighters serve on a council is that the city/town must petition the county council and ask for an increase or additional appropriation. The county council is required to hold a public hearing and may grant or deny the petition.

IACT is opposed to the county council having control over municipal budgets in any way. This oversight defeats the purpose of having city/town council elected officers to serve its citizens. We must work to get this provision changed next year!

Budget Bill Restores Funding to Regional Cities!

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

The Indiana General Assembly passed a \$31.5 B biennial budget last night that includes a projected \$84 M for Regional Cities! The bill also calls for a \$480 M increase in funding for k-12 education. INDOT is slated to receive an additional \$200 M, with local road funding at existing levels. Also contained in the budget is the increase in State Board of Accounts audit fees from \$45 a day to \$175 a day, with a provision that requires audit fees be kept in a separate fund for greater transparency. If this was the “Year of Education,” all signs point to 2017 as the “Year of Roads.” INDOT is expected to release a study this summer of infrastructure needs, including local government shortfalls, which will begin the conversation. Our team will continue to dig into the budget and provide further details in our upcoming Statehouse Report & Legislative Recap Webinar on May 14.