



# LEGISLATIVE SUMMARY



January 24, 2014

## IACT's Top-Priority Bills Will Move Fast Next Week; Replace Don't Erase Still at Forefront

Early weather delays combined with a short session and some large legislative objectives have led to a feverish pace at the Statehouse. Senators opted not to return to their districts on Thursday night and took the unusual step of holding session and committee meetings on a Friday due to first house third reading deadlines looming less than two weeks away.

While the trickle of bills moving from committee hearings to the floor of each chamber is quickly becoming a waterfall, many of the bills we are most closely following have not been voted out of committee. Next week is shaping up to be fast and furious for us with many of our top-priority bills moving at once.

Of course, on the forefront of all of these issues is the move to eliminate business personal property taxes. IACT put the wheels in motion this week to meet with other concerned local government representatives to seek their participation in IACT's Replace Don't Erase initiative. Read more below.

## Legislative Initiatives

### Elimination of Business Personal Property Tax Bills Move Forward

**HB 1001** Tax Exemption for New Personal Property (Turner, R-Cicero)

**SB 1** State and Local Taxation (Hershman, R-Buck Creek)

The House and Senate bills to eliminate business personal property taxes took further steps forward this week. HB 1001, which provides a county option to eliminate business personal property taxes on new equipment via the COIT council, passed out of the Ways and Means Committee on Thursday by a 13-8 vote without amendments.

Earlier this week, SB 1, passed out of the Senate Committee on Tax and Fiscal Policy. Under the Senate bill, a taxpayer with less than \$25,000 in assessed value of business personal property is exempt from taxation. In addition, the bill phases down the corporate income tax rate from 6.5% in 2015 to 4.9% in 2019. It also reduces or eliminates several tax credits including a reduction of the research and development tax credit.

IACT's position on these bills is that we cannot support them unless there is full replacement revenue from the state. IACT has launched **Replace Don't Erase** and we are working with several other local government associations and entities to deliver this message. Visit the IACT website for more information on the campaign at <http://www.citiesandtowns.org/ppt>.

IACT Position – Oppose unless there is full replacement revenue implemented by the State.

## Bills of Concern

## **Attack on Home Rule Authority Heard in Committee**

### **HB 1403 Regulation of Residential Property (McMillin, R-Brookville)**

This attack on Home Rule prohibits locals from requiring an owner or landlord to obtain a permit to lease a rental unit or participate in a class or government program as a condition for leasing a rental unit. It also prohibits locals from inspecting a rental unit or imposing a fee pertaining to a rental unit that is: (1) managed by a professional real estate manager; or (2) if the rental unit has been self-inspected during the previous 12 months by a qualified inspector and the owner of the rental unit has written verification that the rental unit meets or exceeds the standards for which the unit was inspected.

HB 1403 was held in the House Committee on Government and Regulatory Reform on January 21 and will be heard again for amend and vote on January 27. IACT will continue to work to mitigate the impact of this proposal.

IACT Position: Oppose

## **Statutory Definition of “Pollutant” for Insurance Coverage Exclusions**

### **HB 1241 Environmental Coverage (Carbaugh, R-Fort Wayne)**

Indiana courts have regularly ruled certain pollution exclusions in commercial general liability policies unenforceable because of their ambiguity. This bill aims to reverse that precedent by codifying a definition of “pollutant” to make exclusions enforceable and allow insurance companies to exclude coverage for one of the greatest business related risks to municipalities. Currently, lawyers acting on behalf of municipalities are able to seek money from a property owner’s existing insurance policy to pay for the property’s environmental clean-up. Without this ability for the municipality to make a claim on the old policy, the burden of environmental clean-up would fall back on all taxpayers. The definition proposed in this bill would also affect new insurance policies and without purchasing a rider policy, environmental clean-ups would not be covered. We believe many businesses may not know or may not want to pay for a rider policy and therefore, without the insurance coverage, municipalities would not be able to turn to the insurer for compensation when there is an environmental clean-up problem.

HB 1241 is scheduled for 2<sup>nd</sup> reading on January 27.

IACT Position: Oppose

## **Sewer Service Territory Bill Voted Out of Committee**

### **HB 1187 (Bacon, R-Chandler)**

HB 1187 passed out of the House Local Government Committee this week. The bill addresses issues from a sewer territory dispute between the towns of Newburgh and Chandler. These two towns are in such close proximity that their four mile extraterritorial jurisdiction overlaps. The dispute was recently ruled on by the Indiana Court of Appeals. The court ruled that if a municipality stakes a claim to a service territory four miles outside of their boundaries by adopting an ordinance, then the territory is in their control.

The bill allows the case to stand, however, it allows current customers to stay hook-up to their current system and on a going forward basis, it states that no municipality can stake claim to territory outside of their boundaries when it overlaps with another municipality’s.

IAC Position: Keeping a close watch. The bill probably needs more work.

## **IAC Has Concerns with Bills that Limit Debt Service Reserve Funds**

### **SB 70 Debt Service Reserve Funds (Pete Miller, R-Brownsburg)**

### **SB 163 Property Tax Circuit Breaker Replacement Grant (Head, R-Logansport)**

### **HB 1062 Debt Service Funds (Huston, R-Fishers)**

Last week, SB 70 was heard in the Senate Tax and Fiscal Policy Committee. It provides that for debt incurred after June 30, 2014, the balance in a debt service fund may only be 10% of the budget estimate for the annual debt service payments. This week, the same language was amended into SB 163 – a bill which assist schools with their transportation funding problems.

HB 1062 passed out of the House Ways and Means Committee this week. It provides that a debt service fund may only be 25% of the budget estimate for the annual debt service payments.

IAC has concerns about these provisions that limit debt service reserve amounts. We think that one full bond payment should be held in reserve in the event property tax collections run late, so there is not a need to engage in short-term borrowing.

Some schools, however, are currently manipulating their funds in order to lessen the circuit breaker impact on their transportation fund. They are applying the circuit breaker loss to their debt service fund and wiping it out each year and then obtaining a levy to refund it each year. This is problematic because it impacts all units in the county and this is the reason behind the limitations on debt service reserve accounts.

IAC Position – Opposed to prohibition allowing one full debt service payment to be kept in reserve

## **DLGF Bill Contains Language to Hinder TIF**

### **HB 1266 Local Government Finance Issues (Leonard, R-Huntington)**

On Thursday of this week, HB 1266 was heard in the House Ways and Means Committee. The bill contains many provisions that are being sought by the Department of Local Government Finance (DLGF). One provision that IAC supported would remove the requirement that local units publish their budget notice in the newspaper. Rather, the information would be submitted on the Gateway system and a notice would be published in the newspaper explaining where the information could be found on the Gateway website.

The bill also contains a provision regarding Tax Increment Financing which IAC opposes. The bill requires a unit's fiscal body to adopt an ordinance determining the annual pass through of assessed value from a TIF area. Currently, this determination is made by the redevelopment commission. It also requires a redevelopment commission to hold a public hearing regarding its recommendation for TIF pass through and the bill states the criteria for determining "excess" assessed value. The criteria does not include any provisions for pay-as-you go TIF or does not take into account revenues that are being saved (to avoid borrowing) for larger projects that are part of the TIF plan.

IAC Position: Support publication change/Oppose TIF portion

## **IACT Opposed to Bill Dealing with Contracts with Outside Customers for Water, Sewer, Electric**

### **HB 1066 (Wolkins, R-Winona Lake)**

This week HB 1066 was heard (but not voted upon) in the House Environment Committee. While the bill is aimed at the City Elkhart, it also affects other municipalities. The bill amends the annexation statute and says that if a municipality enters into a contract for payments in lieu of annexation for water, sewer, or electric with customers outside of the municipality, the municipality can only use the funds generated from the contract for purposes of the utility. IACT opposed this limitation on use of revenues. An amendment was offered to the bill (although not adopted) which requires binding arbitration if there is a dispute regarding between a municipality and outside customers regarding renewal of a water, sewer, or electric contract.

We believe that the introduced will not be brought back for a vote, however, we do expect the arbitration provision to be discussed further.

IACT Position: Opposed to the limitation of use of funds/willing to work further on issue of how to resolve contract disputes

## **Nursing Home Moratorium Bill Passes Third Reading in the Senate**

### **SB 173 Nursing Facility Moratorium (Pat Miller, R-Indianapolis)**

SB 173 passed third reading in the Senate on Thursday by a vote of 33-14. IACT opposed the bill because it prevents new nursing home facilities from being established in our communities. These new, modern facilities bring economic development and jobs to cities and towns and help our tax base. SB 173 is an effort by a nursing home association to prevent new competition in their marketplace. They argue the bill is necessary so that they can secure more private-pay residents to off-set the low state reimbursement for Medicaid residents. SB 173 prohibits the state department of health from approving the licensure of comprehensive care health facilities or new or converted comprehensive care beds. It also prohibits residential nursing care facility beds from being converted to comprehensive care beds. It adds exemptions for health facilities under development as of June 30, 2014, certain replacement facilities, and continuing care retirement communities. It also specifies that the state department of health makes the final determination concerning whether an entity is under development.

IACT Position – Opposed

## **Prohibition on Local Government Firearm Buyback Programs**

### **SB 229 Firearm Buyback Programs (Tomes, R-Wadesville)**

The Senate Judiciary Committee passed SB 229 with its anti-Home Rule provision by a vote of 6-2 (Head, Zakas) without amendment. SB 229 specifies that a law enforcement agency having possession of a firearm may not destroy the firearm unless the serial number of the firearm has been obliterated. It prohibits a local unit of government, including a law enforcement agency, from conducting a firearm buyback program and it establishes a procedure to permit certain individuals whose firearms have been retained by a law enforcement agency to have the firearms sold at auction and the proceeds, less the costs of sale, returned to the individual. The bill also expands the use of proceeds from a disposal of guns by a municipality to include more than law enforcement education expenses as it could also be used for the purchase or maintenance of firearms, ammunition, vests and other law enforcement equipment.

IACT Position: Opposed to prohibition on buyback programs and neutral on the rest of the bill.

## **Bill Restricting Local Port Authority Dies in Committee, Likely to Return**

### **HB 1189 Ports of Indiana (Soliday, R-Valparaiso)**

This bill severely limits local port authority autonomy of constructing and operating port facilities by requiring them to submit costly studies to the Ports Commission as well as the Governor. The report must include a description of the facility, a business plan, an economic impact analysis, and a market study of the proposed facility that complies with standards of the U.S. Army Corps of Engineers. Furthermore, after June 30, 2014, no more local port authorities may be created and operated that are on navigable waterways and existing port authorities may not expand their jurisdiction to a navigable waterway.

HB 1189 was scheduled to be heard in the House Committee on Roads and Transportation on January 22 but Chairman Soliday pulled the bill. However, this proposal is likely to be back next session.

IACT Position: Oppose

## **Bill Aims to Bring Service Area Changes under IURC Purview**

### **SB 381 Service Areas of Electric Utilities (Crider, R-Greenfield)**

This proposed legislation places severe restrictions on the 72 municipalities in Indiana that own and operate a municipal electric utility. It would place an extreme burden on local economic development by hindering our ability to extend electric service to residents and respond to business needs as our communities continue to naturally grow. When municipalities annex, the Indiana Utility Regulatory Commission would be required to: (1) hold a costly public hearing on whether the municipal electric utility's service area should be changed to include the annexed area no earlier than 30 days and no later than 60 days after the petition is filed; (2) consider new "public convenience and necessity" factors with respect to the utility service area of each affected incumbent electricity supplier; and (3) issue an order within 120 days after the petition is filed as to whether the municipal electric utility's assigned service area should be changed.

While SB 381 has been assigned to the Senate Committee on Utilities, a date has not been set as of January 24. The deadline for bills to be passed out of committee is Thursday, January 30. IACT will continue to closely monitor this situation.

IACT Position: Oppose

## **Other Bills**

### **Proposal Aims to Reduce Strain on Municipal Public Safety Resources**

#### **SB 313 Law Enforcement Run Fees Marion County (Young, R, R-Speedway)**

SB 313 allows the legislative body of an excluded city or town located in Marion County to adopt an ordinance imposing a fee on the property owner if law enforcement officer of the unit is dispatched to the property on at least five separate days within a year to investigate an alleged occurrence of criminal activity on the property and a police report is filed substantiating the occurrence of criminal activity on the property. While the fee amount is

left up to local discretion, it may not exceed \$100. If the fee remains unpaid for 30 days, locals may department may certify the delinquency to the county auditor for placement on the tax duplicate for the property as a special assessment.

This bill was heard in the Senate Committee on Local Government on January 22, 2014 but a vote was not taken.

IACT Position: Support

## **More Flexibility for Locals in Solid Waste Contracts**

### **HB 1246 Solid Waste Collection and Disposal Contracts (Carbaugh, R-Fort Wayne)**

This bill provides more flexibility to locals because it allows locals to use a request for proposal (RFP) rather than the bidding process when awarding contracts for the collection and disposal of solid waste. In most cases, the bidding process requires locals to award the contract to the lowest bidder. The RFP process allows locals to consider many other factors when awarding the contract like facility design, system reliability and energy efficiency. The bill also requires all actions contesting the validity of the contract award to be brought within 30 days.

HB 1246 passed out of the House Committee on Government and Regulatory Reform on January 21.

IACT Position: Support

## **Proposal for Summer Study of Local Governments Pension Plans**

### **SB 54 Study of Local Pension Plans (Zakas, R-Mishawaka)**

Without any opposition the Senate Pension and Labor Committee passed SB 54 requesting the legislative council to assign to the pension management oversight commission or another appropriate committee this summer the task of studying the status of existing local government unit pension plans, including the participation of local government units in the public employees' retirement fund, to determine whether changes are necessary or advisable.

IACT Position: Investigating