



January 31, 2014

Personal Property Tax Elimination Takes Center Stage; Replace Don't Erase Coalition Grows to 16 Statewide Organizations

While each week of a legislative session is busy, this one took the cake! IACT was everywhere this week as committee action in each house of origin was winding down.

The biggest action this week for cities and towns was certainly the advancement of two bills that each begin the process of eliminating Indiana's personal property tax. HB 1001, the House proposal that states a COIT Council can vote to eliminate the personal property tax on new equipment passed the House 63-33 and moved on to the Senate. Senator Brandt Hershman has been named as the Senator sponsor of HB 1001. The Senate's version, SB 1, which cleared the Senate 33-11 this afternoon, stipulates that businesses with personal property assessed at \$25,000 or less are exempt from the personal property tax. House Ways and Means Chair Tim Brown and Representative Eric Turner will shepherd SB 1 through the House. We continue to urge you to let your lawmakers know why they cannot be supported without full replacement revenue guaranteed by the state.

To make this point most effectively, this week IACT officially launched **Replace Don't Erase**. Unveiled at a press conference in Indianapolis, **Replace Don't Erase** now has 16 statewide organizations as coalition partners. Cities, towns, counties, townships, libraries, schools and multiple public safety associations are all active participants in **Replace Don't Erase**. To learn more about the campaign and gather valuable information before speaking to your senators and representatives, please visit: www.citiesandtowns.org/ppt.

Bills of Concern

Proposal Places Burden on and Increases Cost for Government Consolidation

SB 104 Dissolution of Political Subdivision (Tallian, D-Portage)

This bill specifies that a county, city, town, or township does not have the power to dissolve another political subdivision, except as expressly granted by statute. If the power is not granted explicitly in statute, this bill lays out a burdensome procedure the political subdivision must follow in order to dissolve a municipal corporation or special taxing district it created. For an example a park board falls under the broad definition of "political subdivision."

The political subdivision must adopt a preliminary resolution stating intent to dissolve the political subdivision, hold a separate public hearing and allow public testimony, give notice of the hearing, and make available a public plan regarding the dissolution at least 10 days before the hearing. The plan must include The effective date of the dissolution, a description of the assets and obligations of the political subdivision and a proposal regarding the distribution of those assets and the satisfaction of those obligations, a description of the services currently provided by the political subdivision and, if applicable, an explanation of how those services will be provided after

the dissolution of the political subdivision. The hearing cannot be held sooner than 90 days after notice is given and not sooner than 180 days if the political subdivision being dissolved is 10 years or older.

This bill will increase costs for local units wanting to consolidate programs because it requires public notice/meeting and requires cities and towns to keep unwanted programs for upwards of 6 months before being able to consolidate. SB 104 passed out of the Senate Committee on Local Government on January 29. If you have specific examples of how this new procedure would impact your city or town, please contact Justin Swanson at jswanson@citiesandtowns.org.

IACT: Concerned

Proposal Exempts Undefined Entities from Local Ordinances

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

HB 1403 provides that a political subdivision may require a rental unit's owner or landlord to obtain a permit only if: (1) a fee is not being charged for such a permit; (2) a permit does not expire but a political subdivision may require a new owner of a rental unit property to obtain a permit; and (3) only one permit is required for a "rental unit community." It further destroys home rule by not allowing a city or town to inspect a rental unit or impose a fee pertaining to a rental unit that is managed by a professional real estate manager and has been inspected during the previous 12 months by a qualified inspector as defined in the bill. Furthermore, a city or town may not charge more than \$5 a year for registration programs.

This bill was heard in the House Committee on Government and Regulatory Reform on January 27 and was amended on the House floor on January 30. One of the amendments provided that the entity exempt from local inspections must send the inspection report to the local unit. Another amendment grandfathered existing programs if they were enacted before July 1, 1984.

Despite the amendments, there are serious flaws in the bill. First, "rental community" is not defined in the bill so it is unclear who exactly qualifies to be exempted from local ordinances. Second, it is not clear exactly what standards the undefined exempted entities will use for inspecting the properties if they do not have to inspect to local standards. Third, if a permit never expires, how do local units keep slumlords from continuing to rent to the public despite not being in compliance with local ordinances?

HB 1403 is on Third Reading on Monday and will move to the Senate if it is passed. Please contact your House representative this weekend and express your opposition and concerns to this attack on Home Rule.

IACT Position: Opposed

Statutory Definition of "Pollutant" for Insurance Coverage Exclusions

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

This has been a busy week for HB 1241. It was read a second time in the House, amended, and moved to the Senate on a 57-36 vote. 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. The recent amendment provides that the new definition only applies to policies issued or renewed

after June 30, 2014. While this amendment lessens the negative impact of the legislation, it still leaves taxpayers exposed to the risk of expensive uninsured clean-ups. Without purchasing a rider policy, environmental clean-ups would not be covered by many insurance policies. 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 has passed the House and moved to the Senate.

IACT Position: Oppose

Debt Service Reserve Limitations are a Concern

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

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

Two bills are moving which limit debt service reserve funds. IACT finds this concerning. SB 163 contains a provision that 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. HB 1062 provides that a debt service fund may only be 25% of the budget estimate for the annual debt service payments.

IACT 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.

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

Bill Prohibits Local Governments From Conducting Gun Buy Back Programs

SB 229 Firearm BuyBack Programs (Tomes, R-Wadesville)

Under SB 229, local unites of government and local police agencies would be prohibited from conducting gun buyback programs. It also provides that a law enforcement agency having possession of a firearm may not destroy the firearm unless the serial number of the firearm has been destroyed. It also 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.

SB 229 passed the Senate on January 28 and Representative Eberhart will carry it in the House.

IACT Position: Concerned

IACT Initiatives

Food and Beverage Tax Bill Heard on Monday – No Vote Taken

HB 1326 Food and Beverage Taxes (Price, R-Greenwood)

This week, IACT received a hearing in the Ways and Means Committee on HB 1326 the food and beverage tax bill for seven municipalities. The bill authorized Angola, Danville, Elkhart, Goshen, Greenwood, Rockville, and Rushville to adopt municipal food and beverage taxes. Provides that the tax rates may not exceed 1%. Specifies the uses to which receipts from the food and beverage taxes may be applied.

Despite our hard work, the Ways and Means Committee did not take a vote on the bill. We are not certain if the issue can be revived for this session.

IACT Position: Support.

Abandoned Housing Bill Passes in Committee

SB 422 Abandoned Housing (Merritt, R-Indianapolis)

This week, SB 422 on abandoned housing was heard in the Senate Local Government Committee. The bill requires the attorney general to establish and maintain a tax sale blight registry of all persons ineligible to participate in the tax sale. It also reduces the redemption period for certain properties sold at the tax sale to 180 days and provides that properties certified as vacant or abandoned may be sold outright at the tax sale. It prohibits foreign business associations that have not registered with the secretary of state from participating in the tax sale and requires persons who purchase a property or certificate at a tax sale to reimburse the county for the costs of a title search. It permits a county to establish a paddle fee for persons who attend the tax sale and requires the sheriff to notify the owner of a foreclosed property being sold at auction if the sale is canceled.

IACT Position: Support.

First Ever Committee Hearing Held on Requiring Rx for Certain Products

HB 1248 Methamphetamine (Smaltz, R-Auburn)

Indiana has done everything it can to free us from the stranglehold the meth-manufacturing epidemic has had on our communities. Indiana requires ephedrine and pseudoephedrine (PSE) products to be put behind the counter, requires a valid photo ID at the time of purchase, requires a database recording all purchases conducted in Indiana and even puts monthly and annual limits on the amount of PSE products a consumer may buy. These measures have proven to be a band-aid on a deadly virus as the Indiana State Police (ISP) reported seizing 1,808 meth labs in 2013 with a clean-up cost of \$5.4 M. This marks the seventh year in a row for an increase in the number of meth labs seized despite restrictive legislation.

Recognizing meth cooks are circumventing current restrictions with fake IDs and smurfers, Representative Ben Smaltz (R-Auburn) introduced HB 1249 which provides for a county option to return PSE products to a schedule III controlled substance. This classification would once again require consumers to obtain a prescription before purchasing PSE products just as they would have had to before the Food and Drug Administration allowed for the over-the-counter (OTC) sale of PSE products in 1979. Oregon, Mississippi, Missouri and Tennessee require a prescription for PSE products at either the state or local level and have seen a great reduction in the number of meth labs reported with no significant impact on healthcare costs

The House Committee on Courts and Criminal Code took testimony on HB 1249 on January 27. While no vote was taken, this was the first ever committee hearing dedicated to this subject. A broad coalition of groups showed up to testify in support of HB 1249 including the Indiana State Police Alliance, the Indiana Chiefs of Police, ISP, the Indiana Prosecuting Attorneys Council, the Indiana Public Defenders Council and IACT. The Consumer Healthcare Products Association (CHPA), which is the lobbying arm of the manufacturers and marketers of OTC PSE products, and other groups with economic interests in the sale of OTC PSE products were the main opponents to the bill. There was not a single citizen representing himself present to testify against the bill. If the State is unwilling to act in this arena, locals who are closest to the problem should be given Home Rule authority to act.

IACT Position: Support

New Tool to Protect Potential Buyers from Former Meth Lab Homes

HB1141 Methamphetamine Lab Disclosure in Property Sales (McNamara, R-Evansville)

This bill transfers the responsibility for maintaining the methamphetamine laboratory web site from the Criminal Justice Institute to the Indiana State Police. This website will soon contain a searchable database containing the addresses of homes used as former meth labs. It also provides that properties must be removed from the web site 90 days after the property has been certified decontaminated by a qualified inspector. To promote consumer protection, HB 1141 also requires the Indiana Real Estate Commission to amend the sales disclosure form so that owners may disclose that meth was manufactured or the dumping of waste from the manufacture of meth occurred in a residential structure on the property.

This bill passed out of the House Committee on Government and Regulatory Reform on January 28. On February 3, the full House will consider final passage of the bill.

IACT Position: Support

Other Bills

TIF Bills Move Forward

SB 118 Redevelopment Commissions and Authorities (Pete Miller, R-Brownsburg)

SB 367 Property Tax Matters (Hershman, R-Buck Creek)

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

Three bills are currently moving which deal with Tax Increment Financing. While SB 118 has several provisions we can live with, it has a few provisions that we find problematic. The problematic areas are as follows: It prohibits Redevelopment Commissions from using eminent domain. It forces TIF areas that were created before July 1, 1995 to expire, and it also prohibits using TIF for fiber optics.

SB 367 and HB 1266 require a Redevelopment Commission to hold a public hearing to determine TIF pass through (which we support), however, SB 367 gives the fiscal body the final say in the pass through decision. In addition HB 1266 puts a threshold on the amount of property that can be TIFed in each county. HB 1266 also sets a 12% limit based on assessed value or geographical territory.

IAC Position: Neutral on most provisions, opposed to a few provisions.

PILOT Program for Hendricks County 911

HB 1234 Property Tax Matters (Thompson, R-Lizton)

HB 1234 is a general property tax matters bill. It was amended in the Ways and Means Committee this week, however, to add a PILOT program for Hendricks County. The bill provides that the Hendricks County council may certify a special assessment on property in the county for deposit in the district's emergency communications services fund. It specifies the purposes for which money in the fund may be spent and provides that Hendricks County is exempt from the fees imposed under the statewide 911 system while the pilot program is in effect. The funds that remain in a fund or account established for the deposit of distributions received under the statewide 911 system are transferred to the emergency communications services funds.

IAC Position: Supportive of PILOT program.

More Work Needed on Bonding Bill

SB 32 Public Official Bonding (Tomes, R-Wadesville)

SB 32 has passed the Senate and moved onto the House. The bill provides that if an incoming elective officer is not permitted to take office because the incoming officer is unable to give an official bond, the incumbent officer is entitled to hold over as provided in the Constitution of the State of Indiana. It also provides that if the incumbent officer refuses to hold over or otherwise vacates the office, the vacancy shall be filled as provided by law. If the incoming officer is able to give the official bond not later than 30 days after the beginning of the term of office to which the incoming officer was elected, the incoming officer is entitled to take office upon giving the official bond.

We think this bill may need some additional work on the House side and we will continue to work on it.

IAC Position: Supportive of the concept. Bill needs some tweaks.

Sewer Service Territory Bill Voted Out of Committee

HB 1187 (Bacon, R-Chandler)

HB 1187 passed in the House by an 85-10 vote. The bill was meant to address 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.

In its current form, the bill allows the case to stand, however, it states that no exclusive service territories can be claimed outside of municipal limits. We expect to see more changes in the Senate.

IAC Position: Keeping a close watch.

Flexibility in Construction Contracts Limited to Higher Education Institutions

HB 1196 Construction Managers as Constructors (Truitt, R-West Lafayette)

The House Committee on Pensions and Labor took testimony on HB 1196 on January 18 and . As introduced, this proposal authorizes public agencies to employ construction managers as constructors (CMc) for certain construction projects. Most CMc contracts are taxpayer friendly because they generally require a commitment by the construction manager to deliver a project within a guaranteed maximum price (GMP) for the construction, remodeling, rehabilitation, or repair of buildings or other facilities owned by a public agency. Before being passed out of committee, several amendments were adopted that limited the scope of the bill. The most significant amendment limited this option to employ CMcs to state educational institutions only. HB 1196 will be on the third reading calendar on Monday.

Senator Hershman (R-OWheatfield) has a CMc bill ([SB 261](#)) moving through the Senate that would give local units the option of using CMc contracts. If you feel like this is an important option for local units, please contact Justin Swanson at jswanson@citiesandtowns.org.

IACT Position: Support

Bill Aimed to De-incentivize Abuse of Police Protection

SB 313 Law Enforcement Run Fees in Marion County (R. Young, R-Speedway)

SB 313 was gutted by the Senate Committee on Local Government on January 29 and turned into a suggested summer study committee. The new bill urges the legislative council to assign to a study committee, during the 2014 legislative interim, the topic of authorizing a county, city, or town to collect a law enforcement run fee from a property owner, if law enforcement officers of the unit are dispatched to a property multiple times within a year to investigate an alleged occurrence of criminal activity on the property.

As introduced, SB 313 authorized Marion County and excluded cities and towns in Marion County to collect fines not to exceed \$100 on the property owner if police are called there more than 5 times a year to the same property. It also provides that fees collected shall be distributed to the unit's law enforcement agency and if a fee remains unpaid for more than 30 days after it is billed to the property owner, it can be treated as special assessment. The intent of this bill is stop the trend of property owners relying on local police to act as private security guards at events or large rental complexes.

IACT Position: Support