



February 28, 2014

Regular Committees Wrap Up as Legislature Moves into Conference Committees

Regular committee hearings wrapped up this week. Full floor calendars in each chamber reflect the third reading deadlines that were set for early next week, but an impending snow storm in Indianapolis has prompted the Senate to move deadlines back one day. The focus of the legislature should still shift to the conference committee process by midweek as House and Senate leadership push to finish work by March 14th.

Bills of Concern

Personal Property Tax Phase-out Continues to Move; IACT Members Urged to Make Voices Heard in Final Days of Session

This state's efforts to begin the elimination of Indiana's personal property tax (PPT) continues to move through the process as the session begins its final phase. Both the House and Senate kept this issue alive by passing bills out of their key committees. HB 1001 was amended in Senate Finance to revert back to a form that looks more like their original proposal while the House Ways and Means Committee took similar action on SB 1. A summary of the amended bills is [attached here](#) for your review. Both proposals advanced on second reading this week and will be eligible for third reading on Monday. The bottom line here is that this issue remains very much alive and the outcome will be determined during the important conference committee process. It is imperative that you continue to speak with lawmakers about your concerns. Here are some important points to stress during your discussions with them while they are back in home over the weekend!

- IACT fully understands that neither bill being considered is a complete elimination of Indiana's personal property tax. However, the Governor, some lawmakers, and those interest groups pursuing this all speak about this issue as a phase out of PPT. We are talking in this context to ensure that you understand the consequences if any elimination isn't done responsibly, with the health of our communities being properly considered.
- The current proposal being considered by the House (SB 1) has what the House is calling a local option to eliminate PPT on new equipment only. This is NOT a local option. This proposal uses the COIT Council process to eliminate personal property taxes on a county by county basis. The COIT Council process DOES NOT give an equal voice to all unites of local government. In many cities, towns and counties PPT can be eliminated against their wishes or without any real consideration of their position. [Click here](#) for a visual representation of how the COIT Council process works. Furthermore, schools, townships and libraries have no vote in the process.
- The Senate has made great strides in amending their small business exemption. The bill's fiscal impact has gone from approximately \$54 million to approximately \$13 million (\$7 million to be shifted to property owners and \$6 million to local units). Although the fiscal impact is dramatically less in this version, as with the Senate's earlier proposals, there aren't any state replacement funds included.

- We very much appreciate the blue ribbon council that is included in both bills being considered. Studying this issue and the larger scope of municipal finance is critical and we believe ANY legislation with PPT elimination should wait until the conclusion of this study commission. We appreciate that there will be a municipal representative on the study panel and IACT will certainly be an active and productive participant.
- *PLEASE include some local examples of why PPT is important to your community and how you cannot maintain the quality of life your citizens deserve and expect when your revenues are continually threatened without adequate replacement revenue discussions.*

[Link to Amended House Bill](#)

[Link to Amended Senate Bill](#)

Bill Dies in Senate Committee

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

HB 1241 was heard in the Senate Committee on Insurance on February 27 where it died with a final vote of 3 to 6.

This bill specifies the manner in which the meaning of “pollutant” in liability insurance policies must be construed by courts. These liability insurance policies are used by municipalities and redevelopment commissions to remediate environmental hazards and, therefore, give new purpose to otherwise unusable properties rather than pushing the cost onto homeowners. IACT will continue to be on alert should this language pop in conference committee.

IACT Position: Opposed

Debt Service Reserve Limitations are Still a Concern

HB 1062 Debt Service Funds (Huston, R-Fishers; Pete Miller, R-Brownsburg)

HB 1062 was passed in the Senate by a 49-0 vote this week. We attempted to get a second reading amendment in the bill which would have carved civil taxing units (cities, towns and counties) out of being treated like schools when it comes to money allowed to be kept in a debt service reserve fund. Currently, the bill permits only 15% (rather than 50%) of the budget estimate for the annual debt service payments to be kept in reserve. IACT has been lobbying to insure that 50%, or one full bond payment, can be kept in reserve, so there is no cash flow problems and no need to engage in short-term borrowing.

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

Plan Review and Town House Classifications at Issue in HB 1301

HB 1301 Fire and Building Safety Issues (VanNatter, R-Kokomo; Yoder, R-Goshen)

HB 1301 was voted out of the Senate Commerce, Economic Development and Technology Committee this week. IACT testified on the bill stating that we have several concerns. First, there is a provision that would prohibit locals from doing design and plan review. It also states that if the state division of fire and safety does not review design plans within 10 days, a design release must be issued without state review. There are also concerns about a provision that would classify town houses as Class 2 structures. In addition, the bill also prohibits a political subdivision from adopting an ordinance or other requirement after February 28, 2013, that

would require a builder or remodeler to be licensed, certified, permitted, registered, or listed by the political subdivision as a condition to the builder or remodeler constructing or remodeling a residential dwelling. We expect further amendments to the bill on second reading.

IAC Position: Opposed to Limitation on Home Rule/ Concerns about the lack of state plan review

Emergency Notification Bill Allows Volunteer Firefighters to Serve on Councils

SB 335 Emergency Notification Systems (Waltz, R-Greenwood; Frye, R-Batesville)

SB 335 passed out of the House by a 95-3 vote, however, the bill will be going to conference committee. The bill requires the executive director of the department of homeland security to develop and implement protocols concerning the use of severe weather warning sirens. An amendment, which was added in the House committee, is controversial however. It serves to “undo” the conflict of interested legislation that we worked so hard on a few years ago by allowing a volunteer firefighter serving as the executive, a member of the executive body, or a member of the legislative body or fiscal body of a county, city, town, or township (unit) on January 1, 2014, to serve one consecutive term in the same elected office of the unit and also serve as a volunteer firefighter for the unit. We hope that this provision will be removed in conference committee.

IAC Position: Oppose Conflict of Interest Reversion

Nursing Home Moratorium Reduced to One Year

SB 173 Nursing Facility Moratorium (Pat Miller, R-Indianapolis; T. Brown-R, Crawfordsville)

SB 173 was called down on second reading on February 27 and is now eligible for a third and final reading on March 3. The bill was amended so it is likely to go to conference committee.

This bill calls for a 1 year ban on the on the construction of new nursing homes across the state in response to a nursing home association’s concerns the market is being flooded. The bill also prohibits residential nursing care facility beds from being converted to comprehensive care beds. While the bill does provide exemptions for health facilities under development as of June 30, 2014, certain replacement facilities, and continuing care retirement communities, the state department of health makes the final determination concerning whether an entity is under development. Although the impact of this bill on local economic development has been substantially mitigated, IACT will continue working on this bill during conference committee time.

IAC Position: Oppose

Bill Allowing for Owner Arranged Inspections Amended in Committee

1403 Regulation of Residential Rental Property (McMillin, R-Brookville; Holdman, R-Markle)

HB 1403 was heard in the Senate Committee on Local Government on February 26 where IACT was able to put some favorable language into the bill. The amendment allows the political subdivision to set a date certain of when the owner-arranged inspection report must be received in order for the entity to be eligible for opting out of local inspections. It also requires that the qualified inspector be independent from the property being inspected and allows a successful city or town to recover attorney’s fees incurred in a nuisance action.

Under this bill a city or town is prohibited from inspecting a rental unit or imposing a fee pertaining to a rental unit that is managed by a “professional real estate manager” and at least one of the units has been inspected during

the previous 12 months by a qualified inspector as defined in the bill. While a local unit can still inspect a rental unit if they have reason to believe or receive a complaint of a possible code violation, this is still an invasion of Home Rule.

Despite the progress, issues still remain with the bill. For example, "professional real estate manager" is not defined so it is unclear what properties would qualify for owner-arranged inspections. Furthermore, it is not clear exactly what standards these properties will be inspected to if local ordinances do not apply. Please contact your legislators and voice your opposition to this attack on our Home Rule powers.

IACT Position: Opposed

Legislative Initiatives

Meth Bill Headed for Final Passage on Monday

HB 1141 Methamphetamine Lab Disclosure in Property Sales (McNamara, R-Evansville, Head, R-Logansport)

HB 1141 was heard in the Senate Committee on Civil Law on February 24 where it was amended and passed out unanimously. The committee amendment allows a property owners 180 days to decontaminate the property before their property is entered into the searchable database. Additionally, the committee amendment requires a person who manufactures meth on property owned by another person is liable for restitution to the owner for the owner's actual damages, including lost rents and the costs of decontamination. HB 1141 was also amended on second reading to specify that when the contaminated property is a rental unit, only the rental unit is eligible to be listed in the database and not the entire complex.

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 website 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.

IACT Position: Support

Changes Made to TIF Bills

SB 118 Redevelopment Commissions and Authorities (Pete Miller, R-Brownsburg; T. Brown, R-Crawfordsville)

HB 1266 Local Government Finance Issues (Leonard, R-Huntington; Hershman, R-Buck Creek)

On Monday, SB 118 was amended in the House Ways and Means Committee. The provision prohibiting using TIF for fiber optics was removed (however, we expect further attempts by the Indiana Cable Association to put the language back in). In addition, the provision requiring TIF areas created before July 1, 1995 to expire by 2025 or when obligations are paid, whichever is later, is still in the bill. However, an amendment was added allowing the City of Indianapolis to be exempt from this provision for their downtown TIF area. SB 118 received no second reading amendments on the House floor and it is now eligible for a third reading vote in the House.

The other bill we were watching that contained an unfavorable TIF provision was amended on Tuesday in the Senate Tax and Fiscal Policy committee. The provision putting a threshold on the amount of property that can be TIFed in each county without underlying taxing unit approval was removed. This was good news, but we will be watching to make sure it doesn't reappear in SB 118.

IACT Position: Neutral on most provisions, opposed to TIF expiration requirement.

Other Bills

SB 53 Makes it Optional to Bill Tenants for Sewer Instead of Landlords Plus More

SB 53 Sewer Bills and Utilities (Zakas, R-Granger; Culver, R-Goshen)

SB 53 passed out of the House by a 76 to 19 vote. It gives municipalities an option to pass an ordinance whereby tenants are billed for sewer services instead of property owners. The ordinance may include a provision whereby liens do not fall back on the property if tenants are responsible for the sewer fees. IACT testified that it was doubtful that any municipality would adopt an ordinance whereby the property owner would not be ultimately responsible for payment.

A provision that we find troubling is that the bill requires property owners to receive notice for delinquent storm water or sewer fees that are sixty days late via certified mail. The law currently provides for this notice, however, the property owner must request in writing that he or she would like to receive the notice and provide the address to where the notice should be sent. In addition, the bill states that if a municipality provides services to properties outside of the municipality under a contract and there is a dispute about fees, then there cannot be a disconnect – there must be a new contract, annexation or the dispute goes to binding arbitration.

IACT Position: Needs more work – we hope to get tweaks made in conference committee

Committee Amendment Establishes Recreational Trail Maintenance Fund

SB 4 Natural Resources Matters (Steele, R – Bedford; Frye, R - Greensburg)

The purview of Senate Bill 4 was limited to animal control on municipal airport property until Monday, when the bill was heard and amended by the House Committee on Natural Resources. One of the three amendments accepted Monday established the Recreational Trail Maintenance Fund. The fund will be used to help defray the costs of maintaining recreational trails throughout Indiana and will be financed through appropriations from the General Assembly, private donations, and federal sources. The amendment also requests that the General Assembly study issues related to the fund this summer and produce a statewide policy for recreational trails and maintenance of these trails as well as guidelines for the distribution of money from the new fund. Senate Bill 4 is scheduled for a vote in the full House on Monday.

IACT Position: Support

Sewer Service Territory Now Eligible for Third Reading in the Senate

HB 1187 (Bacon, R-Chandler; Charbonneau, R-Valparaiso)

On Monday, HB 1187 was voted out the Senate Environmental Affairs Committee after being significantly amended. It now puts a municipality that offers water or wastewater service outside of the corporate boundaries of the municipality under the jurisdiction of Indiana utility regulatory commission (IURC) and requires the IURC to settle disputes between municipalities over claims to service territories outside of their municipal boundaries.

For a municipal ordinance that is adopted after December 31, 2012 which attempts to claim exclusive service territory outside of the municipal boundaries and the municipality's utility has filed a petition seeking review of the rate and charges for "wholesale sewage service" provided to or by the utility: (1) the municipality shall petition the IURC for approval of the regulatory ordinance; (2) the IURC shall encourage the utilities potentially affected by the regulatory ordinance to reach a mutual agreement about service in the area, and shall assume jurisdiction if the utilities are unable to reach a mutual agreement; (3) the IURC, after assuming jurisdiction and upon considering certain factors, shall issue an order resolving the issues presented by the petition concerning the regulatory ordinance; and (4) the municipality may enforce the regulatory ordinance if there is a final judgment concluding all administrative and judicial proceedings on the petition concerning wholesale sewage service rates. The bill provides that if a municipality, after December 31, 2012, adopts a regulatory ordinance and the municipality's utility has not filed a petition with the IURC concerning "wholesale sewage service": (1) the municipality shall petition the IURC for approval of the regulatory ordinance; (2) the IURC, upon considering certain factors, shall issue an order resolving all issues presented in the petition, including the enforceability of the ordinance; (3) if the IURC order approves the municipality's regulatory ordinance, the municipality may enforce the regulatory ordinance; and (4) if the IURC does not approve the municipality's petition, the municipality may modify and resubmit the petition, and if the IURC does not approve the resubmitted petition the regulatory ordinance is void, but the municipality may petition the IURC to rescind or modify its order on the resubmitted petition after five years.

IACT Position: Keeping a close watch.

Abandoned Housing Bill Now Eligible for Third Reading in the House

SB 422 Abandoned Housing (Merritt, R-Indianapolis; Clere, R-New Albany)

SB 422 passed out of the House Committee on Government and Regulatory Reform this week and received three second reading amendments. The bill makes several changes to the tax sale process in regard to abandoned homes. 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 provides that properties certified as vacant or abandoned may be sold outright at the tax sale and reduces the interest rate for payments in excess of a minimum bid from 10% to 5%. It also lowers the interest rate for refunds on certain tax sales from 6% to 5% and provides that the notice to a record owner of property must occur six months, instead of nine months, after the date of the tax sale. It requires the executive of a county, city, or town to obtain a judgment that a parcel of real property is vacant or abandoned before a certification can be made to the county auditor for tax sales purposes and reduces the period from six to three months when a tax sale purchaser may petition the court for a judgment directing the county auditor to issue a tax deed if the real property is not redeemed from the sale. It specifies that a property tax penalty for property sold by a county executive through a certificate of sale procedure is to be removed from the tax duplicate if the penalty is associated with a delinquency that was not due until after the date of the original tax sale but is due before the issuance of the certificate of sale by the county executive. Requires, for tax deeds executed for real property sold at a tax sale, that the county auditor submit the tax deed directly to the county recorder for recording and charge the tax sale purchaser the appropriate recording fee. 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.

Zoning Commitments By Legislative Body and After an Annexation

[HB 1216](#) Zoning Commitments (Truitt, R-West Lafayette; Head, R-Logansport)

The Senate passed an amended HB 1216 by a vote of 39-9. The bill gives authority to the Council in addition to the Plan Commission to accept commitments when there is a rezoning proposal considered by the Council under the 600 or 1500 series. A second reading amendment deleted language that would send a commitment back to the Plan Commission for action if the legislative body received a commitment during consideration of a rezoning proposal. The bill still addresses the original reason for the bill which is a gap in current zoning laws concerning what body can act, and when, in modifying and terminating previously granted written commitments.

Commitments granted to the county by the property owner before the property is annexed would upon annexation come under the jurisdiction of the municipal legislative body (council) for modification, termination or enforcement. The bill also provides that a decision of the legislative body of the annexing municipality regarding modification or termination of a zoning commitment is a "legislative act" and is not subject to judicial review. The bill may now go to a conference committee.

IACT Position: Support.

Bill Adopting an Annexation Moratorium with Some Exceptions and Municipal Payment of Remonstrators Attorney Fees is Moving; Bad Amendment was Moderated

[SB 273](#) Approval of Annexation Agreements ([Buck, R- Kokomo](#); [Cherry, R-Greenfield](#))

Two weeks ago SB 273 was about to be amended in a House committee to all but stop annexation. Another amendment was crafted and the amended bill has passed second reading. The bill still establishes requirements for an agreement executed and recorded after June 30, 2014, between a municipality and owners of real property, if all or part of the consideration for the agreement is that the owners agree to the annexation of their property or agree not to remonstrate or withdraw a remonstrance against an annexation by the municipality as it left the Senate. It now also allows 100% of owners of land to file a petition requesting annexation of noncontiguous property and removes the requirement that the landowners reside within the annexation territory. Additionally, with certain exceptions, the bill places a moratorium on annexations from April 1, 2014, to July 1, 2015; requires a court with regard to a remonstrance filed after March 31, 2014, and before July 1, 2015, to award attorney's fees and expenses to the signers of the sufficient remonstrance of an amount up to \$40,000; and urges the legislative council to assign annexation topics to a summer study committee. Another amendment was filed to remove the dates making the moratorium seemingly permanent and the attorney's fees effective upon passage but it was not called this week for a vote. The bill would be eligible for a conference committee if passed next week.

IACT Position: Neutral because of compromises made.

Gun Bill Amended in Committee

[SB 229](#) Firearm Buyback Programs ([Tomes, R-Wadesville](#); [Eberhart, R- Shelbyville](#))

SB 229 was amended in the House Committee on Public Policy on February 26 and passed out with a final vote of 8-2. The most relevant amendment allows locals to conduct gun buyback program with private funds or grants rather than an outright prohibition on conducting these programs. The amendment also inserts portions of Representative Lucas' (R-Seymour) [HB 1048](#) dealing with gun rights on school property.

Finally, the amendment restores local police department discretion in how they handle confiscated guns. It provides that the law enforcement agency may retain a firearm and issue the firearm to a law enforcement officer

within the agency, trade a firearm in for credit to a licensed firearm dealer rather than only selling the firearm to a licensed firearm dealer and allows a firearm that may be destroyed to be sold to a salvage company.

IACT Position: Neutral

Second Reading in the House Brings Big Changes to Transit Bill

SB 176 Central Indiana Transit (Pat Miller, R-Indianapolis; Torr, R-Carmel)

In a move sure to send Senate Bill 176 to conference committee, the transit bill was amended on second reading in the House. An amendment by Representative DeLaney (D - Indianapolis) removed the prohibition against funding light rail projects through the public funding process created by SB 176. An amendment by Representative Torr (R - Carmel) outlined a collaborative process that requires county executives to consult with their county's 25 largest employers to determine alternative revenue options for a proposed public transportation system. The third and final amendment on the House floor was offered by Representative Thompson (R - Brownsburg) and removes Hendrix County from the list of counties eligible to participate in the public transportation process established by SB 176.

IACT Position: Support