



March 13, 2015

Don't Miss IACT Legislative Day on Monday!

Monday, March 16th is IACT Legislative Day. This is one day each year when we ask city and town leaders to come to Indianapolis and learn more about the many important bills still alive in the legislative process that have the potential of impacting Indiana's municipalities. As you read summaries of this week's most pressing pieces of legislation, please consider coming to Indianapolis on Monday to take part in IACT Legislative Day. While your IACT legislative team is working hard day in and day out to tell your stories, nothing compares to the progress made when lawmakers hear from the clerk-treasurers, mayors, council members, town managers and countless other appointed officials that make up IACT. YOU are the boots on the ground in local government. It's not too late to make plans to attend on Monday. We hope you'll consider joining us. For more information on Legislative Day and Road Funding Day on March 17, please visit the IACT website at www.citiesandtowns.org.



Check out this week's IACT Legislative Summary for many key pieces of legislation moving through the process at the statehouse this week.

Local Economic Development Project in Jeopardy

SB 460 – Comprehensive Care Health Facilities (Patricia Miller, R-Indianapolis; T. Brown, R-Crawfordsville)

Before the House Committee on Public Health voted SB 460 out of committee with a final vote of 8-2, the committee amended the bill. The amendment made this bill even worse by removing the requirement that a certificate of occupancy had to be obtained by Dec. 31, 2015 and replaced it with a requirement that the complete construction design plans for the comprehensive health facility have been submitted to the state department and the division of fire and building safety not later than March 1, 2015. In essence, if the project in development in your community has not submitted the design plan by March 1, 2015, it will not be able to continue forward pursuant to state law.

Due to the fiscal impact of SB 460, it was recommitted to the House Committee on Ways and Means where it was heard on Wednesday and passed out with a final vote of 13-10. IACT anticipates this bill to be heard by the full House early next week. For information on SB 460, please visit the following link:

<http://www.qualitylivingalliance.org/>.

IACT Position: Oppose

Changes Made to Help Public Safety in Indiana During Emergencies

SB 484 – Fire and Emergency Response Issues (Crider, R-Greenfield; Frye, R-Greensburg)

SB 484 creates the Intrastate Mutual Aid Compact to complement existing mutual aid agreements. It also allows the Indiana Department of Homeland Security (IDHS) to deploy a national urban search and rescue response system task force as a state resource during Indiana emergencies and disasters, in conformance with federal requirements, through an agreement with a political subdivision that is a sponsoring agency of a task force. The bill would require participants in the proposed Intrastate Compact to inventory their current services, equipment, supplies, personnel, and their recovery activities. The IDHS would handle the day-to-day operations of receiving inventories and cataloguing the submissions. Under the bill, IDHS is permitted to provide any task force with the federal reimbursement rate and other protections afforded to units deployed out of state, while being used within Indiana.

IACT Position: Support

SBOA Bill Heard in Committee This Week to Move to New System for Determining Who Gets an Audit and How Often

HB 1104 – State Board of Accounts (Rep. Lehman, R-Berne; Sen. Head, R-Logansport)

Two “sister” bills passed the first half of session that moves the State Board of Accounts (SBOA) to a “risk and needs-based” system for determining frequency for which a unit receives an audit. This week, it became clear that HB 1104 will be the bill to move, as it was heard in Senate Tax & Fiscal Policy Committee on Tuesday with a vote expected soon. The IACT team appreciates the time so many municipal officials have spent providing feedback on this bill and on the SBOA’s new approach to audits. In working on this bill, our team successfully advocated for language to ensure that units who “need” an audit annually are statutorily required to receive one, including units who issue bonds, receive federal grants and have continuing disclosure requirements. Another provision we requested is included in the bill and allows a unit who requests a GAAP-based audit to receive one as long as their records are presented accordingly. This request is not a simple one! As we are finding through our discussions with the SBOA, moving to a modified accrual-based accounting system (and purchasing new software) is not enough to be granted a GAAP-based audit. The final documents must be prepared in a specific way that often requires contracting with a CPA firm, given the complexity of governmental accounting. This point is causing much frustration for many cities and towns, and it is clear we will need to work on this issue even after session in conjunction with the SBOA. Finally, the bill provides a procedure for a public entity (other than a school corporation) under certain circumstances to have examinations performed by a certified public accountant instead of the SBOA. Special thanks to Rep. Lehman and Sen. Head for their outreach and work on this issue!

Position: IACT Board of Directors voted to support the fee increase, as long as certain assurances for funding levels by the state and quality audit needs are met. Many of our requests are contained in HB 1104 – Support.

Omnibus Property Tax Bill Heard in Ways & Means on Wednesday – Includes “Fix” for Dark Store Assessment & Elimination of Small Biz PPT

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

SB 436 was heard in Ways & Means on Wednesday, with more than two hours of testimony on this bill alone. The bill was held and will likely be rescheduled soon to be amended and voted upon. IACT was on hand to testify on two key provisions in the bill.

First, SB 436 includes a provision we support that addresses 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. 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 the sole factor used in determining assessed value, as location, investments and improvements matter. Thanks to Sen. Hershman for his leadership on this issue!

IACT also testified on another provision in SB 436 to eliminate business personal property taxes on small businesses with equipment valued at \$20,000 or less, resulting in an estimated net loss of \$8 M statewide to local units of government. While the fiscal impact of this provision to cities and towns is not enormous, IACT still advocates for replacement revenue when business personal property taxes are eliminated, and thus we are supporting a flat fee for small business PPT replacement.

IACT Position: Support Assessment Language; Neutral on Small Biz PPT Elimination if Flat Fee for Replacement

Bill Attempts to Clarify Public Official Surety Bonds Actually Cover What They are Intended to Cover

SB 393 – Public Official Surety Bonds (Sen. Charbonneau, R-Valparaiso; Rep. Truitt, R-West Lafayette)

Last year the Indiana Attorney General formed the Public Integrity Commission, of which IACT is a member. SB 393 is one of three bills initiated as a result of the Commission, and it was heard in House Local Government on Thursday. The bill attempts to clarify the requirement already in law that units purchase bonds to cover public officials who have access to public funds and extends it to certain employees. The current law requires coverage for \$30,000 per year. However, some bonds are written in a way that have been argued to only cover \$30,000 for the “term.” This has become an issue for the Attorney General’s office, when a crime is committed and an attempt to call the bond is made. Therefore, they are working with the Department of Insurance to clarify their forms and are working in SB 393 to clarify the law. There has been concern that units will be forced to pay more for their coverage. According to the SBOA and Attorney General’s office, that should not happen. The AG’s office did an analysis of what units are paying today and looked at two different scenarios. They found that units who stay with the same bond company (i.e. same bond number over four years) pay about the same as those who switch bond companies each year (thus a new bond number is issued each year). Their advice to units worried about increased costs: “shop around, each year if necessary.” SB 393 also requires units to file proof of bonds with the SBOA.

IACT Position: Support

Two Broadband Bills in Committee Next Week, With Amendments Needed on Wireless Tower Bill!

HB 1101 – Broadband Ready Communities (Rep. Koch, R-Bedford; Sen. Houchin, R-Salem)

HB 1318 – Communications Services and Providers (Rep. Koch, R-Bedford; Sen. Hershman, R-Buck Creek)

Lt. Governor Sue Ellspermann led a group of industry representatives last summer in discussions to identify ways to encourage greater broadband deployment and access in rural areas of the state. **HB 1101** was inspired in part by the workings of the Rural Broadband Working Group (read report [here](#)). Rep. Eric Koch (R-Bedford) invited

IACT and county representatives to come together last fall to provide input into this shovel-ready concept. HB 1101 establishes a Broadband Ready Communities Development Center within the IEDC and provides a new designation of “Broadband Ready Community” for units of local government who wish to participate. To be designated a Broadband Ready Community; a local government may opt in by complying with certain procedures for reviewing applications and issuing permits for broadband communications projects. IACT is supportive of this proposal, which allows communities the option of participating and the opportunity to stand out with the hope that doing so will encourage greater broadband investment.

HB 1318 is another broadband proposal initiated by AT&T and authored by Rep. Koch, who convened several meetings with IACT and other stakeholders over the last few months. We appreciate Rep. Koch’s inclusion of local government early on in these discussions. We also appreciate the many members of IACT who have taken time to provide guidance and feedback. As originally proposed, the bill would have eliminated nearly all local regulation of wireless towers. Thankfully, most of those provisions were removed by an author’s amendment in a House committee. What remains are provisions that: speed up the time allowed for local units to approve or deny a new wireless tower construction application (from 150 days to up to 100 days); provide for consolidated applications for multiple collocation requests and for small cell networks; and provide a framework for uniform statewide applications for new towers, substantial modifications and collocation requests. The bill outlines what is considered a “complete” application. However, it leaves in place local discretion for what conditions to apply when approving or denying an application. This was a critical point for IACT. While many changes were made in the House, this bill still needs work! We are hoping to reach an agreement with the stakeholders for an amendment to address remaining concerns in the bill, which is scheduled for Senate Utilities Committee next Thursday, March 19 at 10 a.m. Many thanks to Senators Merritt and Hershman for their time on this issue as well.

IACT Position: Support HB 1101. Still Working on HB 1318 (Depending on amendment: Neutral or Opposed).

Bill Allows More Transparency of Food and Beverage Tax Revenue

SB 438 State and Local Taxation Issues (Hershman, R-Buck Creek; T. Brown, R-Crawfordsville)

SB 438 will be heard in the Ways and Means Committee on Monday. While the bill contains various provisions on sales taxes, it also provides more transparency for those cities and towns with the food and beverage tax. It allows the fiscal officer of a municipality in which a food and beverage tax is imposed and collected to request from the Indiana Department of Revenue a statement of the percentage amount of food and beverage tax collected within the municipality in the preceding year. In addition, the bill includes a provision that requires the Department of Revenue to enter into an agreement with the fiscal officer of a capital improvement board of managers to provide the fiscal officer with certain information.

IACT Position: Support

Bill Currently Eliminates the Enterprise Zone Investment Credit

SB 441 Eliminates Certain Tax Deductions and Credits (Hershman, R-Buck Creek; Huston, R-Fishers)

SB 441 was heard in the Ways and Means Committee this week. The bill eliminates several deductions and credits, some which are outdated such as the World War I veteran property tax deduction. In its current form, the bill eliminates the Enterprise Zone Investment Credit, which is concerning to several municipalities. It is our understanding that the provision to eliminate the EZ credit will be removed from the bill prior to it moving out of committee.

IACT Position: Neutral if EZ Credit Language Elimination is Removed

Common Law Lien and Disclosure of Address Bill Heard in Committee this Week

[HB 1371](#) Public Officials, Liens, and Restricted Addresses (Richardson, R-Noblesville; Steele, R-Bedford)

HB 1371 was heard in the Senate Local Government Committee this week. The bill has two parts. First, it expands on a law passed last year which allowed judges, law enforcement officers and victims of domestic violence to request to have their addresses removed from a public property data base website. The bill adds public officials to this list and now makes it mandatory that the addresses be removed. Testimony on this issue came from public document managers who said the task to remove such addresses would be a nearly impossible to manage. Second, the bill sets up a separate, more cumbersome process for filing a common law lien on the property of a public official, former public official (within the last 4 years) or public employee. The idea behind common law liens is to allow someone to recoup money owed without having to go to court (usually small dollar amounts) by filing a lien in the recorder's office. This new process only for property owned by public officials, former officials or public employees would require an individual to go to court to file the common law lien. The basis for the bill is that there have been frivolous liens filed against public officials (i.e. judges) even though frivolous liens are already unlawful. IACT is concerned that this second process for a select group of people will be difficult to administer and that it could generate more public records requests in order for someone find out the status of a person owing the debt.

IACT Position: Definite Concerns

Annexation Debate Will Soon Ramp Up Again in the House, Please Talk to Your State Representatives Ongoing About this Issue!

[SB 330](#) – Annexation (Sen. Boots, R-Crawfordsville; Rep. Negele, R-Attica)

Six bills were filed on annexation this session. Today, one bill remains. SB 330 is a terribly concerning proposal which changes municipal annexation and turns the process on its head. As it passed the Senate, SB 330 requires municipalities to proactively solicit approval of 50%+1 or 75% of assessed valuation of landowners for annexation to proceed. The bill eliminates remonstrance waivers, and it requires municipalities to assume debt for improvements the county may have made within the annexed territories. SB 330 is now up for consideration in the House. Please continue to have ongoing conversations with your representatives about this bill, especially if you have a representative who sits on [House Government and Regulatory Reform Committee](#), tell your personal stories and explain:

- SB 330 goes too far. Less than 6% of annexations from 2009-2014 had a remonstrance filed. In vast majority of cases, cities and towns are doing an effective job at communicating upfront. At the end of the day, the outcomes are positive for most people.
- When it comes to annexation, a majority of residents involved are neutral. Asking people to “sign on in support” to something they are neutral toward is not realistic. In that way, SB 330 makes municipal annexation nearly impossible, even in cases where municipalities have gone above and beyond in terms of compliance with the current law.
- Economic projects are at risk under SB 330 - *without* a provision to allow for non-contiguous annexation - this bill creates a situation where one or two landowners could literally stop an economic development project.
- The elimination of waivers reverses decades of planning and good faith work by cities and towns. These waivers have enabled beneficial services to be provided to landowners living outside municipal boundaries, while encouraging slow, smart growth. Also, these remonstrance waivers are especially

necessary in cases where IDEM has mandated sewer hook-ons due to septic failures. Why is it fair for city taxpayers to bear the cost of these services?

- Requiring city taxpayers to assume county debt is a form of double taxation. City taxpayers are county taxpayers too. They have already paid their portion of county taxes toward the county project. Further, this provision is not needed. Municipalities and counties already have the ability to enter into interlocal agreements to deal with such local matters.

- SB 330 attempts to take the courts out of the process for remonstrators. This concept is flawed: the courts will *always* be part of the process. If someone contests the signatures collected – we will end up in the courts. If the city/town feels like there is unfair pressure on residents to not sign petitions – we will end up in the courts. In fact, with no case law existing on this new process outlined in SB 330 – we will end up in the courts even MORE. There is no way to remove the courts from the process, and that is not a bad thing. It is critical that there be an impartial, non-political, judicial representative making final decisions when parties disagree. That is the role of the judicial system in our country and the way our government is set up to function with balance of powers.

- Last fall, a person giving testimony erroneously stated that “Indiana is one of the few states that allows for involuntary annexation.” This is **not true**. In fact, we have yet to find a state that does not allow for some form of involuntary annexation. It is an inaccurate statement, but unfortunately, the “talking point” stuck with some legislators. Please [read this information](#) (last 3 pages are a memo on this point) and share it with your legislators if it comes up!

While no legislation can solve every problem of the past, we have an opportunity to learn from the best practices of the present and create a better process for everyone moving forward. SB 330 is not a balanced or workable approach. Rather, SB 330 is an extreme over-reaction to concerns over annexation. It punishes the vast majority of municipalities because of the perceived sins of a few. IACT has repeatedly come to the table willing to work on a more balanced approach and continues to try to work with the legislature and stakeholders toward a reasonable solution. Please encourage your legislators to vote no on SB 330 as it stands today or amend the bill – There is much more work to be done!

IACT Position: Opposed

IACT Continues to Work with Stakeholders to Improve New Requirements on Locals

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

The Senate Committee on Local Government heard testimony on HB 1264 on Wednesday and held the bill for further amendments. IACT will work with the author, sponsor and State Board of Accounts (SBOA) to fine tune the bill. As written, HB 1264 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 personnel have received the required training. If a SBOA audit finds that the political subdivision has not adopted the internal controls or personnel have not received the 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.

IACT Position: Support concept, working to fine tune the bill

Customers Left in the Dark

SB 309 – Electricity Suppliers’ Service Areas (Crider, R-Greenfield; Koch, R-Bedford)

The House Committee on Utilities, Energy and Telecommunications heard nearly three hours of testimony on SB 309 on Wednesday. Several Mayors from around the state were present to voice their opposition to this one sided proposal. IACT opposes this bill because it severely hamstrings the 72 municipalities that own and operate an electric utility by elevating the interests of the Rural Electric Membership Cooperatives and Investor Owned Utilities over those of the customer. The bill prohibits a municipal electric from offering electric service to a newly annexed area without a mutual agreement with the incumbent electric provider even if the customer requests being served by the municipality that provides more reliable and cost effective electricity. Follow [this link](#) for additional information from the Indiana Municipal Power Agency. The committee held the vote on SB 309. IACT will continue to work with IMPA and committee members to offer an amendment that better balances the interests of the stakeholders and the customer. IACT anticipates a vote on this bill next week.

IACT Position: Oppose

Road Funding Day at Statehouse on Tuesday, March 17

HB 1001— State Biennial Budget (Brown, R-Crawfordsville; Kenley, R-Noblesville)

While the final details for a state budget likely will not take shape until the April revenue forecast is released, IACT anticipates additional funding for the Public Mass Transit Fund (PMTF) while local road funding remains at the current level. The PMTF fund has not seen an increase in the past seven years. In addition to testifying in committee about the current gap in road funding, IACT has partnered with several key stakeholders to hold a Road Funding Day at the Statehouse on Tuesday, March 17. Please visit [this website](#) to register for the Road Funding Day and for more information on the current need for more local road funding.

IACT Position: Support increases in road funding and PMTF

Don't Miss Road Funding Day on March 17



IACT is partnering with several other associations to continue to educate lawmakers on the need to bridge the road-funding gap experienced by cities and towns by holding a Road Funding Day at the Statehouse on March 17. IACT’s Legislative Day is scheduled the day before, so IACT is encouraging members to stay the night in Indianapolis in order to join IACT and our partners on March 17.

2015 Legislative Dates & Deadlines

Thursday, April 9

Deadline for committee reports in second house

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