



Indiana Association of
Cities and Towns

LEGISLATIVE SUMMARY

INDIANA ASSOCIATION OF CITIES AND TOWNS LEGISLATIVE E-NEWSLETTER



MARCH 22, 2013

The *Legislative Summary* is a weekly e-newsletter intended to provide you with a sampling of important bills being debated at the Statehouse. For additional information about the legislative session, continue monitoring [IACT's Legislative webpage](#), or contact us directly at (317) 237-6200.



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- [IN Announcements](#): Federal Health Care Reform Regional Workshops Begin in early April. March 26 Webinar Sold-Out!

IN Action This Week: Top 5 Things to Know

1. Governor Pence addressed cities and towns this week at IACT Legislative Day
2. Road funding testimony heard in Senate Appropriations Committee for budget bill
3. Significant changes made to gaming bill in House Public Policy Committee
4. Mass transit bill passes Senate Local Government Committee, heads now to Senate Tax and Fiscal Policy Committee
5. IACT educates the public at the Statehouse on making of meth problem in Indiana. Read here for Brian Howey's column on the issue: www.howeypolitics.com (Lead Story)

For questions or information on legislation, please contact our Legislative Team or any [IACT Staff Member](#).



Rhonda Cook, IACT Government Affairs Director & Legislative Counsel
Cell: 317-694-1451 / rcook@citiesandtowns.org



Justin Swanson, IACT Government Affairs Specialist
Cell: 260-615-1528 / jswanson@citiesandtowns.org



Jodie Woods, IACT General Counsel
Office: 317-237-6200 ext. 222 / jwoods@citiesandtowns.org

Mike Smith, IACT Government Affairs Coordinator, Office: 317-237-6200 / msmith@citiesandtowns.org

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IN Local Roads & Streets Initiative: Increased Funding a Top Priority!

Local Mayors Testify for Need of Local Road Funding

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

HB 1001 was heard in the Senate Committee on Appropriations on March 21, 2013. Mayors Huck Lewis (Lebanon) and Joe McGuinness (Franklin) provided persuasive testimony with concrete examples of the crucial need for local road funding in order to maintain Indiana’s reputation as the “Cross Roads of America.”

As HB 1001 is currently drafted, cities and towns stand to receive \$24 M over the next two years by removing the off-the-top distribution for ISP operating expenses and \$32.8 M over the next two years by tweaking the distribution of sales and use taxes. In total, HB 1001 allocates an estimated additional \$56.8 M to cities and towns over the next two years.

The remaining dates for scheduled testimony is as follows:

03/26/2013	30 minutes after adjournment Room 431 Appropriations
03/27/2013	4:00 PM Room 431 Appropriations
03/28/2013	9:00 AM Room 431 Appropriations
04/04/2013	9:00 AM Room 431 Appropriations

IACT Position: Support

Program to Give Flexibility to Local Road Maintenance Amended in Committee

[HB 1067](#) – Federal Fund Exchange Program (Rep. Cherry, R-Greenfield; Sen. Becker, R-Evansville)

This bill was heard on March 21, 2013 in the Senate Committee on Appropriations where it was amended and passed out with a vote of 12-0 and is headed to the Senate floor for 2nd reading.

HB 1067 establishes the federal fund exchange program to allow a county, municipality, or metropolitan planning organization that receives funds from the Federal Surface Transportation Program to exchange the federal funds at a rate of not less than \$0.75 of state funds for each \$1 of federal funds. The Department of Transportation is charged with administrating the program and the municipality is still required to provide matching funds of 10% of the project cost.

The amendment narrows the use of the exchanged money to only capital projects that the federal funds were originally given to the unit of government. IACT is actively working on amending this bill to expand the use of the funds to road maintenance.

IACT Position: Support

IACT Working on 2nd Reading Amendment to Provide Additional Funds to Local Roads

[HB 1324](#) – Motor Fuels (Rep. Frye, R-Greensburg; Sen. Eckerty, R-Yorktown)

This bill passed out of the House Committee on Homeland Security, Transportation and Veterans Affairs with a vote of 8-1 and is headed to the House floor for 2nd reading.

HB1324 provides for the imposition of the motor carrier fuel tax and surtax by imposing the existing rates on the diesel or gasoline gallon equivalents of the various forms of natural gas sold. The funds generated from this tax and surtax will be distributed to the Motor Vehicle Highway Fund among others. Local units may receive up to \$1.3 M in FY 2014 and \$1 M in FY 2015 in additional transportation revenues from the bill through the MVH and Highway Road and Street Fund.

IACT is actively working on a 2nd reading amendment to institute a local road impact fee on electric vehicles that would be collected during the registration process with the BMV. It is estimated that this fee will generate approximately \$1 M in FY 2014 and \$1.5 M in FY 2015. Revenues generated from this fee will be deposited into the Local Road and Street Account.

IACT Position: Support

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IN Bills of Concern

ALERT! We Need Your Help! Tentative Committee Hearing Date Set

[HB 1313](#) – Regulation of Residential Leases (Rep. Speedy, R-Indianapolis; Sen. Holdman, R-Markle)

HB 1313 puts a one-year moratorium on the start of any new rental housing inspection programs that require a landlord to obtain a permit or license or pay a fee. It sends the issue of rental housing inspections programs to summer study.

IACT has heard this bill has been tentatively scheduled for Wednesday, April 3, 2013 in the Senate Committee on Local Government. We need all of you to contact Chairman Head and express your concerns that this bill is a detriment to local economic development, public safety and an intrusion on home rule community standards. Please be sure to give local examples of the necessity of these inspection programs. Chairman Head can be reached at s18@in.gov or (317) 232-9488.

IACT Position: Oppose

This Bill Will Reduce Tax Base -- \$17.2 Million Loss to Locals

[HB 1544](#) – Various Tax Matters (Turner, R-Cicero; Hershman, R-Buck Creek)

HB 1544 was amended on third reading of the House to remove problematic language which provided counties, cities and towns with a local option to exempt personal property. The bill still contains language which changes the caps on the common areas of rental properties from 3% to 2% which results in a loss of \$17 M in property taxes statewide. The bill passed the House by a 65-30 vote and has now been assigned to the Senate Tax and Fiscal Policy Committee where it awaits a hearing.

IACT Position: Opposed

Bill Which Prohibits Local Door-to-Door Solicitation Laws from Applying to Cable Companies Passes in the House

[SB 235](#) - Video Service Providers (Holdman, R-Markle; Koch, R-Bedford)

SB 235 now contains a provision saying that local peddler laws do not apply to cable company peddlers. The cable association says that it uses door-to-door marketing to homes that have satellite dishes. The companies try to get these residents to switch to cable. Several cities and towns require door-to-door solicitors to register and undergo a background check regardless of what the peddlers are selling. The laws also usually set acceptable times of solicitation.

Under this provision, the Indiana Utility Regulatory Commission would now regulate cable company peddlers and local laws would be pre-empted. IACT has concerns about this provision. We believe this provision would block citizens who have complaints from seeking local assistance. We have heard from many IACT members who feel that this provision is problematic.

Even though the bill passed 75-17 in the House, we have been promised by Rep. Koch that the bill will go to conference committee so that further changes can be made.

IACT Position: Opposed to Peddler Law pre-emption

Bill Addresses Annexation Matters Between Cities and Towns

[SB 284](#) - Annexation by Town Outside of City Boundaries (Buck, R-Kokomo; Cherry, R-Greenfield)

SB 284 removes a requirement that a town obtain the consent of a second or third class city before annexing within three miles of the city. It prohibits a town from annexing within one mile of the corporate boundaries of a second or third class city unless: (1) the town is located in a different county than the city; or (2) the annexation is obtained by consent of the landowners. It also allows a town to annex within an area that extends: (1) more than one mile outside the boundaries of a second or third class city; and (2) less than three miles; if any annexation by the town does not extend more than one mile outside the corporate boundaries of the town. The bill passed out of the Senate and has been assigned to the House Government and Regulatory Reform Committee.

IACT Position: IACT Legislative Committee voted to oppose the bill; however, we do know there are some towns that support the bill.

Senator Kenley's TIF Bill Awaits a Hearing in the House

[SB 325](#) – Redevelopment Commissions and Authorities (Kenley, R-Noblesville; Cherry, R-Greenfield)

SB 325 makes various changes to the redevelopment statute. It passed the Senate 44-5 and has been assigned to the House Regulatory Reform Committee.

IACT Position: Opposed, but working on potential changes to the bill

Bill Allows RDCs to Provide Money to Commercial Property Owners

[SB 346](#) – Redevelopment Commissions (Head, R-Logansport; Friend, R-Macy)

SB 346 provides that redevelopment commissions may provide financial assistance to the owner of commercial property within a redevelopment or economic development area to assist the owner in constructing, rehabilitating or repairing commercial property. An amendment was added by Senator Kenley to require that such financial assistance would require approval by the unit's fiscal body. While the

bill as introduced was favorable because it made clarifications to existing powers, we do have some concerns about the additional approvals that were added by the amendment.

This week, the bill was passed out of the House Commerce, Small Business and Economic Development Committee.

IACT Position: Support the concept

Annexations Would be Limited to 15% of AV Per Year**[SB 376](#) – Gross Assessed Value Limits on Annexation (Buck, R-Kokomo; Mahan, R-Hartford City)**

SB 376 provides that for annexations adopted after June 30, 2013, a municipality may not annex territory that would result in an increase in the total gross assessed value of the municipality by more than 15% in the ensuing calendar year (as compared to the total gross assessed value of the municipality before the effective date of the annexation ordinance), regardless of whether the increase in assessed value results from one or more than one annexation. It also provides that for annexations adopted after June 30, 2013, the effective date of an annexation ordinance may not be more than one year after the date the annexation ordinance is adopted. (Current law provides that the effective date of an annexation ordinance in some annexations may be postponed for not more than three years.) The bill passed out of the Senate 44-5 and has been assigned to the House Government and Regulatory Reform Committee where it awaits a hearing.

With the 15% limitation, IACT believes the bill may be problematic for some cities and towns and for example may prevent a city/town from being able to annex an *entire* subdivision. We would like to know your thoughts on this bill would affect you locally. We need your feedback to provide data and information to the House Committee Chair. Please send Rhonda Cook an email with your comments rcook@citiesandtowns.org.

IACT Position: Oppose

Bill Expands IURC Jurisdiction...Again**[SB 385](#) – Regional Sewer Districts (Charbonneau, R-Valparaiso; Wolkins, R-Winona Lake)**

SB 385 allows a purchaser of wholesale sewage service to petition the IURC for the settlement of a dispute (currently, going to court is the only option). It also provides that certain fees shall be deposited into the public utility fund instead of being deposited with the state treasury. There is also a provision which provides that a contract for the construction of a municipal sewage works may not require certain landowners to waive the right to remonstrate against annexation by the municipality. The bill passed the Senate and will be heard in the House Environmental Affairs Committee next week.

IACT Position: Opposed to more IURC expansion

Gaming Bill Gutted in Committee, Revenue Returned to Municipalities**[SB 528](#) – Gaming (Sen. Boots, R-Crawfordsville; Rep. Davis, R-Portland)**

This bill was heard in the House Committee on Public Policy on March 20, 2013 where it was heavily amended and recommitted to the House Committee on Ways and Means. The bill deleted the provisions seen by Governor Pence and Speaker Bosma as an expansion of gaming in Indiana. These provisions include permitting riverboats to move inland to adjacent property, table games at racinos and the use of mobile gaming devices.

After the amendment, the provisions that are left intact are (1) no tax on \$2 M free play (per casino); (2) admissions tax becomes 3.45% supplemental wagering tax; (3) gaming investment tax credit capped at \$40 M (tax credit equals 10% of the qualified capital project); and (4) the requirement that locals receiving funds from a casino to post the agreement on the transparency portal. Most importantly, the guaranteed \$33 M to locals was restored to the original agreement that was reached in 2002. However, more changes are likely to come and IACT will continue to monitor the development of this bill.

IACT Position: Support

Provision in Bill Limits Amount in Debt Service Funds

[SB 517](#) - Local Government Finance (Peter Miller, R-Brownsburg; Huston, R-Fishers)

SB 517 is a bill mainly dealing with school finances, but it contains an unfavorable provision that affects all local governments. Section 4 of the bill states that in determining the amount of the levy for a debt service fund for an ensuing year, the maximum amount allowed for an operating balance in the debt service fund is twenty-five percent (25%) of the budget estimate for the debt service fund for the ensuing year. This is a very problematic provision. Local governments only collect property tax revenues twice a year, therefore our budgets operate on 18 months and allow for a six month cushion should taxes not come in as anticipated. This provision of limiting debt reserves to 25% would likely require many local units to issue tax anticipation warrants just to make debt payments.

The bill was heard this week in the Ways and Means Committee. IACT opposed section 4 and presented a letter detailing the problem drafted by Umbaugh.

IACT Position: Opposed to Section 4.

Bill Which Prohibits Locals from Setting Employee Terms is Controversial on House Floor

[SB 213](#) - Employee Benefits (Boots, R-Crawfordsville; Speedy, R-Indianapolis)

SB 213 prohibits a local government from adopting an ordinance that restricts private employers from setting their own employee benefits, terms of employment, working conditions or attendance or leave policies that exceed the requirements of federal or state law, rules or regulations. Because the provision is a limitation on home rule power, IACT opposed the bill. (We see the most problematic provision being the inability to pass a local law on a working condition as a circumstance could arise in a disaster or public health situation where local control would be necessary.)

The bill was called down for its third reading in the House on Tuesday of this week and there was quite a lively debate on the House floor. We believe there were not enough votes for it to pass, so the Speaker held the bill and made it a special order of business for Thursday, March 21st. On Thursday, however, we learned that the special order of business has now been postponed to Monday.

IACT Position: Opposed

Video Services Franchise Fees

HB 1432 (Lutz) contained language that would eliminate cable franchise fees. The bill did not receive a hearing, but we are still keeping a close watch on this issue to make sure language is not added into another moving bill.

IACT Position: Oppose

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IN Legislative Initiatives

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Attempted Amendment on House Floor Fails to Gain Support

[SB 496](#) – Meth (Sen. Yoder, R-Middlebury, Rep. McMillin, R-Brooksville)

SB 496 was heard on the House floor for 2nd reading where two amendments were offered with one being adopted. The first amendment allows retailers selling ephedrine/pseudoephedrine products in convenience packages an additional six months to come into compliance with the National Precursor Log Exchange system. The second amendment, which was not adopted, would have lowered the annual limit on the purchase of ephedrine/pseudoephedrine products from an eight month supply (61.2 grams) to a six month supply (43.2 grams).

IACT Position: Support

IACT Educates Public on Meth Issue

The Meth issue was front and center at IACT's Legislative Day on Tuesday. IACT's Meth Awareness signs flanked the Statehouse stage, where Mayor Lloyd Winnecke (Evansville), Mayor Joe Thallmer (Warsaw) and State Representative Rebecca Kubacki (R-Warsaw) spoke about the devastation of Meth and the need to make pseudoephedrine and ephedrine containing medications a controlled substance. Columnist Brian Howey released today a gripping account of Meth in Indiana and Tuesday's events.

[Click here for story.](#)



Pictured at IACT Legislative Day: Governor Mike Pence, Mayor Joe Thallmer (Warsaw), Mayor Lloyd Winnecke (Evansville), State Rep. Rebecca Kubacki (Warsaw)

IACT Initiative Passes Both Houses, Headed to Conference Committee

365 – Utility Facility Relocation (Sen. Crider, R-Greenfield; Rep. Koch, R-Bedford)

SB 365 authorizes a unit of local government to enter into an agreement with a utility concerning the relocation of the utility's facilities for a major highway, street, or road project undertaken by the local unit. The agreement must include a date for relocation and conditions under which the utility is excused from meeting the date, including a force majeure clause.

This bill was heard in the House Committee on Utilities and Energy where it was slightly amended. It passed out of the House on March 12, 2013 and has been sent back to the Senate. Since this bill was amended in the second house, it will go to conference committee.

IACT Position: Support

Food and Beverage Tax Authority for Fishers and Cloverdale

HB 1070 - Cloverdale food and beverage tax (Rep. Baird, R-Greencastle, Sen. Bray, R-Martinsville)

This bill authorizes the Cloverdale town council to adopt a 1% Food and Beverage Tax on taxable food and beverage transactions in the town that could go into effect as early as September 1, 2013. All funds collected must go into a separate account and may only be spent on the financing, construction, operation, maintenance, and debt service of sanitary sewers or wastewater treatment facilities, drainage or flood control facilities and water treatment, storage, or distribution facilities. HB 1070 also authorizes the town of Fishers to adopt a 1% Food and Beverage Tax and requires the revenue to be spent to reduce the town's property tax levy or on economic development.

HB 1070 has been sent back to the House for conference committee.

IACT Position: Support

Abandoned Homes

IACT is working on amendments to be added to SB 433 in the House Local Government Committee. The amendments would help communications between counties and cities and towns regarding abandoned properties and the tax sale process.

LOIT Distribution

IACT is asking the state to insure that locals are getting their full distribution of local option income taxes. Due to the processes at the Indiana Department of Revenue, locals are only receiving distributions based on tax returns filed. The state is keeping the local portion from those taxpayers who don't file returns. We are told that in order to rectify the problem, the Department must buy a costly computer system. IACT is urging the state to rectify this problem by taking any necessary steps.

Last week, SB 544 was heard in the House Ways and Means Committee. The bill has many provisions, but one tweaks the LOIT trust accounts that the state keeps on behalf of the counties. The balances in the trust accounts are based on estimates. Mayor Allan Kauffman of Goshen testified on the bill explaining that the Department of Revenue needs additional funding so that a computer system can be developed to track LOIT on a real-time basis versus on estimates.

PSAPs

HB 1304 dealing with Public Service Answer Points did not get a hearing in the House Ways and Means Committee. IACT may find it possible to have language added to another bill to address some needed clarifications.

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IN Other Bills

Bill Recommitted to House Ways and Means

[SB 4](#) – Altering Historic Preservation Districts (Sen. Arnold, D-La Porte; Rep. Dermody, R-La Porte)

HB 1318 provides the exclusive method for removing the designation of a historic district. It requires that a petition requesting the designation of a historic district be filed with the legislative body of the unit by the owners of: (1) a building, structure, or site designated as a single site historic district; or (2) by at least 60% of the owners of the real property in a multi-parcel historic district. The historic preservation commission under time constraints would conduct a public hearing, make findings on statutory criteria and make a recommendation to grant or deny the petition. The legislative body must act within 45 days after receiving the petition from the commission by adopting an ordinance granting a petition by: (1) a majority vote, if the recommendation of the commission is to grant the petition; or (2) by a two-thirds vote, if the recommendation of the commission is to deny the petition. If the legislative body fails to act upon the petition within the 45 day period, the petition is considered granted or denied in accordance with the recommendation of the commission. An ordinance must be adopted if the petition is deemed granted and recorded which the designation removal date is.

This bill also transfers the administration of the Historic Rehabilitation Tax Credit (HRTC) from the Division of Historic Preservation and Archeology of the Department of Natural Resources (DHPA) to the Office of Community and Rural Affairs (OCRA). Among other changes to eligibility for the HRTC, it increases the minimum amount of qualified expenditures from \$10,000 to \$25,000, requires the property be vacant for a one-year period and creates a new scoring system for the awarding of the credit. HB 1318 has been recommitted to the House Committee on Ways and Means and has not yet been assigned a hearing date.

IACT Position: Support

Local Units Would Be Able to Use TIF for Senior Housing

[HB 1359](#) - Age-restricted Housing Programs (Huston, R-Fishers; Broden, D-South Bend)

HB 1359 allows a redevelopment commission to use tax increment financing for housing developments that are for seniors. The bill has passed both the House and Senate with no amendments, so it is on its way to the Governor for signature.

IACT Position: Support

Bill Debated in House Committee - Allows Excess Utility Funds to be Used for Economic Development

[SB 349](#) Municipal Utility Funds and Economic Development (Head, R-Logansport; Friend, R-Macy)

SB 349 gives a local unit of government the authority to donate funds from the municipally owned utility's surplus earnings to a local economic development organization, as long as certain obligations of the municipally owned utility are met before the donation is made.

The bill was heard for the second time in the House Local Government Committee this week where amendments were added to allow an investor-owned public utility to add an improvement charge for sewer service if the IURC grants approval.

IACT Position: Support the Concept.

Bill Passes Committee Which Gives All Municipalities Access to Insurance Proceeds for Structures Damaged by Fire or Explosion

[SB 169](#) Insurance Proceeds Set Aside (Sen. Head, R-Logansport; Rep. Lehman, R-Berne)

SB 169 applies the law concerning insurance proceeds escrow deposits to all cities and towns, phased in over three years. (Current law applies only to first and second class cities.) It provides for insurer notice to a municipality of an insurance claim filed for structure damage caused by fire or explosion and provides for municipality notice to an insurer of estimated or actual costs to the municipality for demolition or rehabilitation of the structure under the unsafe building law. SB 169 requires a deposit of a certain amount of available insurance proceeds to an escrow account. Repeals: (1) a definition made obsolete by the bill; and (2) current notice requirements that apply to Gary and Hammond.

An amendment was added to the bill in the House Insurance Committee which requires municipalities that want to participate in the program to register with the state fire marshal and pay a \$100 fee to the state! It also sets limitations for the availability of the funds. The bill passed out of committee and is now eligible for second reading in the House.

IACT Position: Support the Concept, Oppose Limitations and Fee

Bill Amended to Provide for Local Flexibility

[HB 1219](#) -- Privacy of home addresses (Rep. Karickhoff, R-Kokomo; Sen. Buck, R-Kokomo)

The bill allows (rather than requires) a local unit of government that operates a public Internet web site data base containing the names and addresses of property owners to establish a procedure to permit a law enforcement officer or victim of domestic violence to restrict disclosure to the general public of the person's home address. It permits a unit to charge a reasonable fee and provides immunity from civil liability for certain units that restrict address disclosure.

This bill was heard in the Senate Committee on Local Government on March 20, 2013 where it was amended to extend the protection to judges as well as make it an option rather than a requirement. It passed out of committee and is headed to the Senate floor for 2nd reading.

IACT Position: Neutral

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IN Announcements



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