



April 3, 2015

Serious Concerns on Annexation and Conflict of Interest Bills up Next Week

This week at the statehouse most all other work was overshadowed by the controversy surrounding the Religious Freedom Restoration Act (RFRA). After the Governor signed the RFRA bill ([SB 101](#)) into law last week, there was public outcry that the law promoted discrimination, especially toward the lesbian gay bisexual and transgender (LGBT) community. Many business leaders and others were vocal in the national news expressing their disappointment with Indiana's stance on RFRA and vowing not to do business in Indiana. In a press conference Thursday, the House and Senate leadership stated that they disagreed that the RFRA legislation promoted discrimination, however, that was the perception. Therefore, they said they would be passing a trailer bill to make the intent of the legislation more clear – a move backed by business leaders and representatives of the LGBT community who were present. [SB 50](#) was amended in conference committee with the clarifying language. On Thursday, it was passed by both houses and was signed by the Governor the same day.

Even though the RFRA debate was consuming of legislators' time, the IACT legislative team continued to work on many other important issues. It is now coming down to the wire because next week is the last week for bills to come out of committee. The annexation bill (SB 330) will be in committee again on Tuesday in Government and Regulatory Reform. We have been working with the House authors on an amendment to improve the current language in the bill. Also on Tuesday in that same committee, SB 567, the TIF reporting consolidation bill will be heard (an IACT initiative). On Wednesday, in the Senate Local Government Committee, the volunteer firefighter bill we be considered again (HB 1433). In its current form, it reverses the conflict of interest law passed in 2012 for volunteer firefighters only. It allows volunteer firefighters to serve on a city or town council for which they work or as the executive, however, the municipality's budget will go to the county council for binding review! This is not acceptable to cities and towns and it sets a very bad precedent for municipal autonomy! PLEASE keep in touch with IACT on this issue next week. Depending on how the bill is amended, we may be sending out an ACTION ALERT for you to call your legislators, so please stay tuned!

Bills of Concern

Municipal Budgets Could Have Binding Review by County in HB 1433!

Bill Requires Binding Review by County of City/Town Budgets if Volunteer Firefighters Serve on City or Town Council or as Mayor

HB 1433 – Volunteer Firefighters Serving in Elected Office (Mahan, R-Hartford City; Head, R-Logansport)

As you may remember, passing a conflict of interest bill was one of IACT's top legislative initiatives leading up to 2012. House Bill 1433 overturns a portion of the conflict of interest bill that was passed in HEA 1005-2012 and would allow volunteer firefighters to serve on the city or town council for which they work or serve as the executive of the city or town. HB 1433 says that volunteer firefighters could serve on the city/town council or as the executive, BUT the city/town budget would be subject to **binding county council review**. There has been discussion about limiting the binding review to the fire safety budget. However, the fire safety budget is part of the

general fund for most municipalities. Such review would still subject the entire budget to being decided by the county. Also, the county does not provide fire services, so they would not be in a position to offer qualified feedback on what is appropriate for fire safety.

More importantly, this is a major shift in public policy for our state – subjecting municipal budgets to county review diminishes the role of city/town council members, who are elected by the city and town residents to make decisions for the municipality with the best interest of the city and town in mind. **412 cities and towns use volunteer firefighters** (either through municipal fire departments, as “on-call” employees or via interlocal agreements). IACT opposes the county having binding review over any portion of municipal budgets. The bill was held again in committee this week, and is scheduled for a vote on Wednesday, April 8 at 1:30 p.m. Please talk to your legislators about this bill, and let them know you are opposed to any binding county review, especially if your senator sits on Senate Local Government. Members of Senate Local Government are: Head (R-Logansport), Smith (R-Charlestown), Buck (R-Kokomo), Eckerty (R-Yorktown), Hershman (R-Buck Creek), Houchin (R-Salem), Perfect (R-Lawrenceburg), Broden (D-South Bend), Breaux (D-Indianapolis), Taylor (D-Indianapolis).

IACT Position: Oppose Binding County Council Review of Municipal Budgets; Support Existing Conflict of Interest Law

Annexation Vote Next Week!

House Committee to Vote on Annexation Bill Next Week - Please Talk to Your State Representatives Ongoing About this Issue!

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

Testimony on SB 330 was heard in House Government and Regulatory Reform Committee last week. An amendment was discussed that would change the bill significantly and includes the following provisions: requires six months of upfront community outreach by the municipality before an annexation ordinance may be adopted; requires more detailed information in the fiscal plans; makes the agricultural exemption under section 4.1 of the annexation statute automatic depending on “use” versus zoning; requires remonstrance petitions be filed with the county auditor instead of with the courts; limits remonstrance waivers going forward to 25 years or the life of the municipal bond for the project (whichever is less); lowers the threshold for remonstrance signatures needed to go to court from 65% (current) of landowners signatures to 51% of landowner signatures; and removes the court – stops an annexation altogether – if at least 65% of landowners sign a remonstrance petition. The bill also makes troubling changes to what a court may consider in an annexation hearing.

While the amendment is an improvement to SB 330 as it passed the Senate, IACT is opposed to the removal of the courts from the process. Cities and towns deserve their day in court to defend the annexation proposals and make their case for growth. SB 330 will be voted on in committee on Tuesday. Testimony last week was very one-sided. Please call your representative, especially if he or she sits on House Government and Regulatory Reform Committee, tell your positive, personal stories and explain:

- We need a more balanced amendment – one that balances the interests of citizens who live within cities and towns and who are speaking through their elected representatives versus the interests of those who live outside.
- Legislators have heard from a minority of people who have not been happy with the annexation process, but this is not the norm. 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 the greater good.
- There are provisions in the amendment which we have supported, including requiring extensive communications outreach prior to the introduction of an annexation ordinance and requiring more detailed fiscal plans. These provisions alone will go a long way in improving the process for everyone involved.

- We have been asked, 'why we would be opposed to removing the courts at the 65%?' We would like to address that question through example. There may be a company or development that wishes to locate on parcel A and wants to become part of the municipality. However, parcels B and C stand between parcels A. If parcels B and C indicate they will oppose (66%), then the municipality has two options: 1) the annexation is void and therefore the entire area misses out on an economic development project due to the two property owners who refuse or 2) the municipality can annex a greater area to include more positive landowners. If such a threshold to remove the courts is considered, then a minimum parcel threshold must be also considered.

- Right now, both the bill and the amendment are one sided. City and town residents are giving on all points. We hope legislators will work toward a balanced approach where all parties must compromise. As the saying goes, good policy decisions are made when all parties are satisfied or when no one is happy. There is more work to be done.

IACT Position: Opposed

Prepare to Publish Budgets in Papers Once Again!

Bill Reverses Law and Once Again Requires Publication of Budgets in Newspapers

SB 288 – Local Budget Government Notices; Public Records (Glick, R-LaGrange; Borders, R-Jasonville)

SB 288 was amended in House Local Government Committee yesterday and reverses a recent law that changed the requirement for publishing of budgets in newspapers to instead require political subdivisions to submit their budgets to the DLGF, which then posts all budgets online at www.budgetnotices.in.gov. Under current law, the county is required to still publish notice on behalf of all the units that state budget notices are available online. Last year was the first year for this change. Newspapers fought this law when it was enacted and are pushing this year for budget notices to be required in newspapers once again. Sen. Glick and Rep. Borders sponsored the amendment and say they represent more rural areas, where broadband is less accessible, and therefore residents will miss out on the budget notice if it is not printed in the papers. IACT has supported clarification in the law so units still have the option of publishing budgets, and we have argued that this should be a local decision. We also noted that the DLGF will mail budget notices to individuals upon request. The Local Government Committee sided with the press, but did include a sunset provision so that the requirement to publish budgets in newspapers will expire after 2020. A second amendment was also adopted yesterday that allows a state or local government public agency to charge a fee for the time required by the public agency in excess of two hours, to search for a public record. It restricts the hourly rate charged for the search to \$20 per hour. It also allows units to provide electronic records in response to requests. The bill passed committee by a vote of 11-2 and will be eligible for 2nd Reading in the House on Tuesday.

IACT Position: Oppose Requiring Publication of Budgets; Support it as a Local Decision

Other Bills

Wireless Tower Bill Amended at Request of Cities & Towns

HB 1318 – Wireless Communications (Koch, R-Bedford; Hershman, R-Buck Creek)

As originally introduced, this bill would have eliminated nearly all local regulation of wireless towers. Thankfully, most of those troubling provisions were removed by an author's amendment in the House. For the last several weeks, IACT's team has been meeting with stakeholders and legislators to work on further changes. We appreciate the collaborative approach especially of AT&T, Rep. Koch and Sen. Jim Merritt (R-Indianapolis). The bill was amended yesterday in committee in response to many city and town requests. HB 1318 does the following: 1) Speeds up the time allowed for local units to review and approve or deny a new wireless tower

construction application; 2) provides for consolidated applications for multiple collocation requests and for small cell networks; and 3) provides 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. The bill does place restrictions on locals adopting fall zone requirements that exceed the engineering requirements. However, local units may still adopt setback requirements, which was also a critical point for IACT. Another major change in this bill is the addition of “communication service providers” (CSP) to the definition of public utilities under 8-1-2-1(a). Most CSP’s are public utilities (or contract with public utilities) today. It will be important for all municipalities to evaluate their ordinances managing public utilities in ROWs as allowed by 8-1-2-101, and to examine their ordinances regulating wireless towers. IACT successfully advocated for a delay in effective date of the bill to January 1, 2016. The bill passed Senate Utilities unanimously, but it was recommitted to Senate Appropriations due to potential impact to ROW agreements in the state toll roads and interstates. Further amendment is likely.

IACT Position: Neutral

House Republicans Adopt Meijer’s Language Over Local’s Suggestions for Box Store Assessments; And Remove De Minimus Exemption

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

SB 436 was amended and voted out of Ways & Means on Wednesday. The omnibus property tax bill had 27 amendments filed in committee. Two amendments of note were adopted including one that removes the elimination of small business personal property taxes and another that changes the assessment method for big box stores. The box store assessment language has been hotly debated since Sen. Hershman amended the bill a few months ago to address 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. House Republicans are supporting Meijer’s language that allows for the use of “dark stores” as comps. The language also is not retroactive, which puts millions of dollars of assessment appeal cases in jeopardy for local units. Meijer is arguing that retroactive language is unconstitutional. However, there is precedent for retroactive language in the assessment statute, passed as recently as 2012. 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 a factor used in determining assessed value, as location, investments and improvements matter. This bill will likely go to Conference Committee, where final language will be negotiated. Thanks to Sen. Hershman for his leadership on this issue!

IACT Position: More Work Needed

Public Integrity Commission Promotes Bill that Gives Towns Options for Filling Clerk-Treasurer Vacancies

SB 514 – Clerk Treasurer Vacancy (Charbonneau, R-Valparaiso; Price, R-Greenwood)

SB 514 is a result of the Public Integrity Commission, which met last summer and fall under the direction of the Attorney General's office. During the commission's meetings, they dealt with the question of what to do if a town Clerk-Treasurer leaves office for any reason and the council is unable to fill the vacancy, after all efforts to replace the Clerk-Treasurer have been exhausted and public notice is provided. SB 514 gives towns options to fill such a vacancy by allowing a town council member to serve as ex-officio town clerk treasurer for the remainder of the term, without additional compensation. If a council member is serving as ex-officio town clerk treasurer, then it allows the town to either: 1) Enter into an inter-local agreement with another town clerk-treasurer, or 2) Contract with a CPA to assist the town legislative body member with the clerk treasurer duties for the remainder of the term. The bill passed out of House Local Government Committee yesterday with a unanimous vote and is now eligible for 2nd Reading in the House.

IACT Position: Support

Abandoned Housing Bill is Voted out of House Committee

SB 415 Vacant and Abandoned Housing and Mortgage Servicing (Merritt, R-Indianapolis; Clere, R-New Albany)

Testimony continued on SB 415 on Monday and it was voted out of the House Local Government Committee on Thursday morning. Initially, the bill was introduced to address a drafting error in the law passed last year which enabled abandoned properties to be sold outright at tax sale rather than having a redemption period. The bill now contains many positive provisions in addition to deal with abandoned and problem properties. For instance, the bill includes a provision that allows a county, city or town to adopt an ordinance to allow a tax deduction for abandoned properties that are rehabilitated. It provides a mechanism for city and towns or the county to take control of an abandoned property when the minimum bid is not received. It also prohibits owners of property that was found to be vacant or abandoned from buying property at tax sale and requires the attorney general to include these owners on the tax sale blight registry.

One controversial part of the bill with which IACT had concerns was the portion that removed the Indiana law providing for foreclosure settlement conferences. We have heard from our members that these conferences are effective in keeping people in their homes after working out a plan with their lender. The Indiana Bankers' Association testified that the Indiana law is no longer needed since the federal government adopted the Dodd-Frank act. On Thursday, this controversial portion of the bill was removed.

IACT Position: Support

Bill that Simplifies Local Option Income Taxes Moves to the Senate Floor

HB 1485 Local Option Income Taxes (Thompson, R-Lizton; Hershman, R-Buck Creek)

HB 1485 was amended and voted out of the Senate Tax and Fiscal Policy Committee on Thursday. In an effort to simplify our the local income tax statute, this bill calls for a transition of CAGIT, COIT, CEDIT and various other local income taxes for special purposes to be renamed "Local Income Taxes" with three different rate components. The transition would occur in 2017 and all distributions for the current income taxes would remain the same. We are continuing to evaluate the complexities of the bill and if the bill passes, more tweaks may be necessary next session.

IACT Position: Support

TIF Reporting Consolidation Bill to be Heard Next Tuesday

SB 567 Redevelopment Commissions and Authorities (P. Miller, R-Brownsburg; Truitt, R-West Lafayette)

SB 567 is an IACT initiative bill which will be heard on Tuesday in the Government and Regulatory Reform committee. The bill aims to consolidate the multitude of TIF reporting deadlines to make reporting easier and more efficient for local governments. The bill also allows a redevelopment commission or authority to hold its organizational meeting on *any* day in January that is not a Saturday, Sunday or legal holiday (current law requires the meeting to be held on the *first* day of January that was not a Saturday, Sunday or legal holiday). It clarifies that the fiscal officer of a redevelopment commission may disburse funds only after the disbursement is approved by the commission. Thanks to the members of the Redevelopment Association of Indiana for helping with this bill!

IACT Position: Support - An IACT Initiative

Common Construction Wage Elimination Held in Committee

HB 1019 – Common Construction Wage (Torr, R-Carmel; Yoder, R-Middlebury)

On March 31, the Senate Committee on Tax and Fiscal Policy took hours of testimony on HB 1019. As currently written, this bill repeals the common construction wage statute. The common construction wage statute would still apply to those public works projects awarded before July 1, 2015. Under current law, when a public works project will cost more than \$350,000, a board comprised of local taxpayers, the awarding agency and labor representatives meet to decide the common wage based on local industry data. An amendment was discussed during committee but was not voted on by the committee. The amendment concentrated on setting penalties for contractors who abuse work rules and would require employee training programs. The committee decided to hold HB 1019 another week to give legislators more time to understand the issue. IACT anticipates a committee vote next Tuesday.

IACT Position: Neutral

Gaming Bill Moves to Full Senate

HB 1540 – Various Gaming Matters (Demondy, R-LaPorte; Alting, R-Lafayette)

On April 2, the Senate Committee on Appropriations adopted an amendment to HB 1540 before voting it out of committee with a final vote of 10-1. The amendment specifies the process for entering into a tribal-state compact concerning Indian gaming, adds several tax related provisions for the French Lick casino, caps the number of gaming positions at 2007 levels, deletes the capital investment tax credit and adds additional topics for a summer study committee related to the extent local governments rely on revenue generated from the casinos and racinos. The information gathered during the summer study committee will be very important to how Indiana responds to a declining casino and racino revenue being sent to the state. HB 1540 is now on 2nd reading in the Senate and is eligible for additional amendments. IACT anticipates HB 1540 to go to conference committee if it passes the Senate.

IACT Position: Closely Watching

Additional Flexibility Given to Municipal Water Utilities under IURC Jurisdiction

SB 516 – Utility Infrastructure Improvements (Charbonneau, R-Valparaiso; Speedy, R-Indianapolis)

On April 1, the House Committee on Utilities, Energy and Telecommunications passed SB 516 unanimously 10-0 without any amendments. SB 516 amends the law on water and wastewater utility distribution system improvement charges so that the law applies to municipally owned utilities and not-for-profit utilities. It allows a municipally owned utility or not-for-profit utility that is under the jurisdiction of the Indiana Utility Regulatory Commission (IURC) for the approval of rates and charges to petition the IURC for the adjustment of its basic

rates and charges to provide for the recovery of infrastructure improvement costs. Current law limits the total adjustment revenues to 5% of the utility's base revenue approved by the IURC at the utility's most recent general rate proceeding.

IACT Position: Support

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