



February 21, 2014

## Important Bills Expected to Move Through Committee Next Week

Only three weeks of the 2014 legislation session remain. While there are only four working days before committee hearing deadlines, we expect some important bills to move through the regular committee process next week before the focus shifts to finalizing legislation in conference committees and passing bills to the governor. Many of the bills remaining to be scheduled for committee next week are important for our cities and towns.

### Bills of Concern

#### Business Personal Property Tax Elimination Bills Up for Committee Vote Next Week

**HB 1001** Tax Exemption for New Personal Property (Turner, R-Cicero; Hershman, R-Buck Creek)

**SB 1** State and Local Taxation (Hershman, R-Buck Creek; T. Brown, R-Crawfordsville)

IACT, along with over twenty Replace Don't Erase coalition members, continue to urge the legislature to insure that there is state replacement revenue should they pass a bill which eliminates taxes on business personal property. SB 1 was heard last week in the House Ways and Means Committee. It is scheduled for amend and vote on Monday (2/24) in Ways and Means. Under SB 1, a taxpayer with less than \$25,000 in assessed value of business personal property is exempt from taxation. In addition, the bill phases down the corporate income tax rate from 6.5% in 2015 to 4.9% in 2019. It also reduces or eliminates several tax credits including a reduction of the research and development tax credit.

HB 1001 provides a county option to eliminate business personal property taxes on new equipment via the COIT council. It was heard in the Senate Tax and Fiscal Policy Committee on Tuesday, but no vote was taken. The bill is scheduled for amend and vote in the Senate Committee on Tuesday (2/25) of next week.

Visit the IACT website for more information on **Replace Don't Erase** at [www.citiesandtowns.org/ppt](http://www.citiesandtowns.org/ppt).

IACT Position – Oppose unless there is full replacement revenue.

#### Nursing Home Moratorium Reduced to One Year

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

After being passed out of the House Committee on Public Health February 10, SB 173 was recommitted to the House Committee on Ways and Means where it was amended before being voted out 12-7.

As introduced in the Senate, this bill called for a 5 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. However, during committee, Chairman Brown reduced the 5 year ban to a 1 year ban to allow for more deliberation on whether a ban is needed. 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.

IACT opposes the bill because these modern facilities expand our tax base by bringing economic development and jobs to cities and towns across the state.

IACT Position: Opposed

## **Debt Service Reserve Limitations are a Concern**

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

HB 1062 was heard in the Senate Appropriations Committee on Thursday. The bill was amended so that for debt incurred after July 1, 2014, only 15% of the budget estimate for the annual debt service payments can be kept in reserve. IACT has concerns about this provision that limits the debt service reserve amount to only 15% rather than 50%. We think that one full bond payment should be held in reserve in the event property tax collections run late, so there is not a need to engage in short-term borrowing.

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 heard this week in the Senate Commerce, Economic Development and Technology Committee. Three amendments were considered, but the bill was not voted out of committee. We have several concerns with the bill including 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.

The bill will be up for amend and vote in committee next week.

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

## **Bill Gets Rescheduled**

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

HB 1241 was originally scheduled to be heard in the Senate Committee on Insurance on February 20. However, the bill was not heard and has been rescheduled for February 27 in the same committee.

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. There are concerns over the retroactive nature this bill may have on insurance coverage. Please continue to contact your legislators regarding your opposition to this bill.

IACT Position: Opposed

## **Bill to Ban Gun Buyback Programs Heard in House Committee**

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

SB 229 was heard in the House Committee on Public Policy on February 19. It was held after testimony and has been scheduled to be heard in the same committee on February 26.

This bill prohibits local governments and law enforcement agencies from conducting firearm gun buyback programs. It also prohibits law enforcement agencies from destroying confiscated firearms with legible serial numbers. SB 229 also allows a citizen whose firearm has been confiscated by police to require the police to hold an auction to sell the firearm with the proceeds, less the cost of the sale, going to the citizen. Please contact your legislators and voice your opposition to this bill that takes away police and city and town discretion on what programs are needed for their communities.

IACT Position: Opposed

## **Emergency Notification Bill Amended to Allow Volunteer Firefighters to Serve on Councils**

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

SB was heard in the House Veterans Affairs and Public Safety 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 was added that allows 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.

IACT is opposed to the provision that allows for conflicts of interest with volunteer firefighters. Three years ago, it was IACT's number one initiative to pass legislation which would eliminate such conflicts for all elected officials. After much controversy and discussion, a state law was passed to eliminate conflicts of interest and address nepotism. This is now a reversion of that law.

IACT Position: Oppose Conflict of Interest Reversion

## **Other Bills**

## **TIF Bill Heard in Ways and Means**

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

SB 118 was heard in the Ways and Means Committee on Thursday of this week. For the most part, it has provisions we can live with, but it has a few others that we find problematic --it forces TIF areas that were created before July 1, 1995 to expire, and it also prohibits using TIF for fiber optics.

We expect the Committee to schedule the bill for amend and vote next week. It is possible that a provision from HB 1266 putting a threshold on the amount of property that can be TIFed in each county without underlying taxing unit approval could be inserted into the bill.

IACT Position: Neutral on most provisions, opposed to the two provisions.

## **Discussion Took Place This Week on Annexation Amendment to Senate Bill 273**

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

SB 273 was heard last week in the House Government and Regulatory Reform Committee. It was scheduled for amend and vote this week, but Rep. Bob Cherry, the author of a controversial amendment offered to the bill, asked for more time to work out a compromise.

The amendment prohibits an annexation ordinance or fiscal plan from being amended after introduction. It changes the fiscal plan requirements and changes the annexation remonstrance process. It removes judicial intervention in the annexation remonstrance process. It changes the number of petition signers from 51% to 65% for a voluntary annexation. It requires consent of 65% instead of 51% of any landowner in the annexation territory to exempt a town from provisions which prohibit a town from annexing within a certain distance of a city. It allows any owner of land with the territory proposed to be annexed to remonstrate (current law allows one person having an interest in each single property to remonstrate). It eliminates the remonstrance hearing process and makes technical changes related to the treatment of annexed farmland.

IACT set up a meeting with Rep. Cherry and several annexation experts to discuss the ramifications of the amendment. We are working toward a revision to the amendment.

IACT Position: Ok with the bill, currently opposed to the proposed amendment.

## **Bonding Bill Voted Out of the House Elections Committee**

### **SB 32 Public Official Bonding (Tomes, R-Wadesville; Richardson, R-Noblesville)**

SB 32 was brought back for amend and vote in the House Elections Committee this week. Originally, the bill provided an elected officer more time to secure a bond. It stated that if an incoming elective officer is not permitted to take office because the incoming officer is unable to give an official bond, the incumbent officer is entitled to hold over as provided in the Constitution of the State of Indiana. It also provided that if the incumbent officer refuses to hold over or otherwise vacates the office, the vacancy shall be filled as provided by law. If the incoming officer is able to give the official bond not later than 30 days after the beginning of the term of office to which the incoming officer was elected, the incoming officer is entitled to take office upon giving the official bond.

Last week, IACT testified in support of the concept of the original bill, however, we felt that there may be a better approach and we asked for a revision. This week before being voted upon, the bill was amended in committee to remove the additional 30 day grace period. It now requires there to be a notice clause on the candidate form explaining that there may be a bonding requirement associated with the elected office. We believe this notice will be helpful to candidates and will encourage them to seek information about bonding earlier in the process.

IACT Position: Supportive as amended.

## **Sewer Service Territory Bill Will Be Considered Next Week**

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

HB 1187 is scheduled for a hearing in the Senate Environmental Affairs Committee on Tuesday of next week. The bill is meant to address issues from a sewer territory dispute between the towns of Newburgh and Chandler. These two towns are in such close proximity that their four mile extraterritorial jurisdiction overlaps. The dispute was recently ruled on by the Indiana Court of Appeals. The court ruled that if a municipality stakes a claim to a service territory four miles outside of their boundaries by adopting an ordinance, then the territory is in their control.

In its current form, the bill allows the case to stand, however, it states that no exclusive service territories can be claimed outside of municipal limits. We expect to see amendments to this bill on Tuesday.

IACT Position: Keeping a close watch.

## **Bill 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 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.

Two amendments were added in committee. The first, that we find troubling, 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. The other amendment adopted 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 on the details of this bill

## **Zoning Commitments By Legislative Body and After an Annexation**

### **HB 1216 Zoning Commitments (Truitt, R-West Lafayette)**

The Senate Local Government Committee amended and then passed HB 1216 to the Senate floor. The bill still addresses the 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. One of the two amendments by the Senate Committee would give 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. The second amendment was at IACT's request and was to remove the last section of the bill which provided an additional and separate process for the zoning of land being annexed. This amendment was sought since zoning is already considered in the annexation fiscal plan. The bill further 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.

IACT Position: Support

## **Study of Tax Incentives Amended in Committee**

### **HB 1020 Economic Development Incentives (Koch, R-Bedford; Hershman, R-Buck Creek)**

HB 1020 was heard in the Senate Committee on Tax and Fiscal Policy where it was amended and passed out with a final vote of 8-0. This bill creates the framework for a comprehensive review of all state and local tax incentives provided to encourage economic development over a five year period beginning in the 2014 interim.

The amendment makes several changes to the bill. First, it adds local political subdivisions, bodies corporate and politic, and county or municipal redevelopment commissions to the list of entities that must cooperate with the Commission on State Tax and Financing Policy and the Legislative Services Agency in providing requested information for the tax incentive review. Second, it deletes the requirement that the Department of Local Government Finance must conduct an annual audit of 1% of the statement of benefits submitted by taxpayers who receive property tax abatements. Finally, it expires numerous tax credits effective January 1, 2020. For a list of the expiring tax credits, click [here](#).

IACT Position: Support

## **Bill to Help Communities with Blighted Properties Scheduled Second Hearing**

### **SB 422 Abandoned Housing (Merritt, R-Indianapolis; Head, R-Logansport)**

SB 422 was heard in the House Committee on Government and Regulatory Reform on February 18 where it was held. It has been scheduled for another hearing in the same committee on February 25.

This bill requires the Attorney General to create and maintain the Tax Sale Blight Registry beginning on July 1, 2015 which will contain the information of people who are prohibited from participating in tax sales. Prohibited people include (1) an out of state or out of country entity not registered with the Secretary of State, (2) an out of state or out of country entity that is registered with the Secretary of State, but is not in good standing, and (3) agents of those entities.

SB 422 provides that properties that have been certified as vacant or abandoned may be sold outright at the tax sale and reduces the period of redemption for such properties to 120 days. SB 422 also adds "blighted" to the list of factors that determine whether or not a structure is safe under the Unsafe Building laws.

IACT Position: Support

## **Non-Contiguous Annexation Bill Moves Out of Committee**

### **[HB 1099](#) Annexation of Non-contiguous Property (Niemeyer, R-Lowell; Charbonneau, R-Valparaiso)**

HB 1099 was heard in the Senate Local Government Committee on Wednesday. The bill provides for non-contiguous annexation for a water treatment facility. In addition, an amendment was added for the Town of Centerville. The Town had purchased a former INDOT building for use as its police station, but there was not enough contiguity for annexation. The amendment would allow the Town to have an exception to the contiguity rule for their police station.

IACT Position: Support

## **Legislative Initiatives**

### **Meth Disclosure Bill Held Up in Committee**

#### **[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 17 but the bill was held. It is scheduled to be heard again in the same committee on February 24.

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

## **Bill Allowing for Self-Inspections Receives Hearing Date**

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

HB 1403 has been scheduled for a hearing in the Senate Committee on Local Government on February 26.

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. A "professionally managed" property is not defined under the bill so it is not clear who exactly will be allowed to conduct self-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