



February 7, 2014

Personal Property Tax Will be Front and Center During Second Half of Session

The first half of the 2014 legislative session is officially behind us. Both houses pushed hard early this week to meet third reading deadlines and race the impending snow storm back to their districts. A number of important bills died on third reading calendars, but many more switched chambers and are awaiting new committee assignments. With only a handful of committee hearings scheduled so far for next week and less than four weeks until the next set of critical deadlines, IACT prepares for the last stretch.

Again, front and center will be the issue of eliminating taxes on business personal property. As you have probably read in the newspaper and seen on television news, IACT along with 19 other coalition members, has launched a media campaign aimed at urging the governor and the state legislature to insure that there is replacement revenue as part of their plan to eliminate taxes on business personal property. Both the House and Senate bills (HB 1001 and SB 1) have now passed their house of origin. Yet, there has not been a single public discussion by state leaders regarding what state revenue source will make up for the loss that locals will suffer. [The Replace Don't Erase](#) coalition will continue to voice its concern during the second half. See below for more information and to click on a link to the coalition website.

Bills of Concern

Elimination of Business Personal Property Tax Bills Continue to Move Forward Without Replacement Revenue

[HB 1001](#) Tax Exemption for New Personal Property (Turner, R-Cicero)

[SB 1](#) State and Local Taxation (Hershman, R-Buck Creek)

The House and Senate bills to eliminate business personal property taxes passed in their houses of origin. HB 1001, which provides a county option to eliminate business personal property taxes on new equipment via the COIT council, passed the House 63-33. SB 1 passed 35-11. 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.

IACT's position on these bills is that we cannot support them unless there is full replacement revenue from the state. IACT has launched a [Replace Don't Erase](#) campaign and we are working with 19 other statewide associations and entities to deliver this message. Visit the IACT website for more information on the campaign at www.citiesandtowns.org/ppt.

IACT Position – Oppose unless there is full replacement revenue.

Debt Service Reserve Limitations are a Concern

[SB 163](#) Property Tax Circuit Breaker Replacement Grant (Head, R-Logansport)

[HB 1062](#) Debt Service Funds (Huston, R-Fishers)

Two bills passed their houses of origin which causes IACT some concern. SB 163 contains a provision that debt incurred after June 30, 2014, the balance in a debt service fund may only be 10% of the budget estimate for the annual debt service payments. HB 1062 provides that a debt service fund may only be 25% of the budget estimate for the annual debt service payments.

IACT has concerns about these provisions that limit debt service reserve amounts. 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.

Some schools, however, are currently manipulating their funds in order to lessen the circuit breaker impact on their transportation fund. They are applying the circuit breaker loss to their debt service fund and wiping it out each year and then obtaining a levy to refund it each year. This is problematic because it impacts all units in the county and this is the reason behind the limitations on debt service reserve accounts.

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

Attack on Home Rule Moves to the Senate

[HB 1403](#) Regulation of Residential Rental Property (McMillin, R-Brookville)

This bill passed out of the House on February 3 with a final vote of 67 to 28. It now moves to the Senate with Senator Holdman (R-Markle) as a sponsor.

HB 1403 is designed to provide a process for undefined entities to exempt themselves from local inspection ordinances and, therefore, local standards by conducting their own inspections. Under HB 1403, 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.

IACT Position: Oppose

Nursing Home Moratorium Bill Moves to the House

[SB 173](#) Nursing Facility Moratorium (Pat Miller, R-Indianapolis)

SB 173 passed the Senate by a 33-14 vote and now moves to the House. IACT opposes the bill because it prevents new nursing home facilities from being established in our communities. These new, modern facilities bring economic development and jobs to cities and towns and help our tax base. SB 173 is an effort by a nursing home association to prevent new competition in their marketplace. They argue the bill is necessary so that they

can secure more private-pay residents to off-set the low state reimbursement for Medicaid residents. SB 173 prohibits the state department of health from approving the licensure of comprehensive care health facilities or new or converted comprehensive care beds. It also prohibits residential nursing care facility beds from being converted to comprehensive care beds. It adds exemptions for health facilities under development as of June 30, 2014, certain replacement facilities, and continuing care retirement communities. It also specifies that the state department of health makes the final determination concerning whether an entity is under development.

IACT Position – Opposed

Proposal Places Burden on and Increases Cost for Government Consolidation

SB 104 Dissolution of Political Subdivision (Tallian, D-Portage)

SB 104 passed out of the Senate with a final vote of 48-0 and Representative Neese (R-Elkhart) has been named as the House sponsor.

This bill specifies that a county, city, town, or township does not have the power to dissolve another political subdivision, except as expressly granted by statute. If the power is not granted explicitly in statute, this bill lays out a burdensome procedure the political subdivision must follow in order to dissolve a municipal corporation or special taxing district it created. For an example a park board falls under the broad definition of “political subdivision.”

The political subdivision must adopt a preliminary resolution stating intent to dissolve the political subdivision, hold a separate public hearing and allow public testimony, give notice of the hearing, and make available a public plan regarding the dissolution at least 10 days before the hearing. The plan must include The effective date of the dissolution, a description of the assets and obligations of the political subdivision and a proposal regarding the distribution of those assets and the satisfaction of those obligations, a description of the services currently provided by the political subdivision and, if applicable, an explanation of how those services will be provided after the dissolution of the political subdivision. The hearing cannot be held sooner than 90 days after notice is given and not sooner than 180 days if the political subdivision being dissolved is 10 years or older.

IACT: Concerned

Insurance Coverage for Pollutants Assigned to Senate Committee

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

HB 1241 was assigned to the Senate Insurance committee early this week. We will continue to follow this bill closely during the second half of session.

Indiana courts have regularly ruled certain pollution exclusions in commercial general liability policies unenforceable because of their ambiguity. This bill aims to reverse that precedent by codifying a definition of “pollutant” to make exclusions enforceable and allow insurance companies to exclude coverage for one of the greatest business related risks to municipalities. Currently, lawyers acting on behalf of municipalities are able to seek money from a property owner’s existing insurance policy to pay for the property’s environmental clean-up. The recent amendment provides that the new definition only applies to policies issued or renewed after June 30, 2014. While this amendment lessens the negative impact of the legislation, it still leaves taxpayers exposed to the risk of expensive uninsured clean-ups. Without purchasing a rider policy, environmental clean-ups would not be covered by many insurance policies. We believe many businesses may not know or may not want to pay for

a rider policy and therefore, without the insurance coverage, municipalities would not be able to turn to the insurer for compensation when there is an environmental clean-up problem.

HB 1241 has passed the House and moved to the Senate.

IACT Position: Oppose

Pipe Bill Died on the Senate Calendar

SB 68 Piping Materials Used in Public Works Projects (Banks, R-Columbia City)

SB 68 provided that for purposes of the law on public works projects of state agencies and political subdivisions, including design-build public works projects that: (1) the specifications or design criteria package must specify that all piping materials that meet the recognized standards of the American Society for Testing and Materials or the American Water Works Association may be acquired for and used in the projects; and (2) in the acquisition of piping materials for a project, the characteristics of the piping materials as to quality, sustainability, durability, and corrosion resistance of the piping materials shall be considered, where applicable.

This bill was opposed by IACT, engineers and the ductile pipe lobby. The bill was not called down for third reading in the Senate because it did not have the votes to pass.

IACT Position: Opposed.

More Work to Be Done on Building Inspection Bill

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

HB 1301 passed the House and 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. It also provides that a political subdivision is not prohibited from licensing, permitting, or registering specific trades or issuing permits and approvals that regulate the use, planning, and development of property. The bill also has some concerning provisions about building plan review which IACT is further investigating.

IACT Position: Opposed to Limitation on Home Rule/ Further investigation needed

Legislative Initiatives

Bill Addressing a Symptom of Indiana's Meth Manufacturing Epidemic Passes the House

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

HB 1141 passed out of the House on February 3 with a final vote of 95-0. Senator Head (R-Logansport) has been assigned as the Senate sponsor.

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 web site 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

Other Bills

Bill Urging Summer Study Committee On Law Enforcement Run Fees Passes Senate

[SB 313](#) Study Committee Topic (R. Young, R-Speedway)

This bill passed out of the Senate with a final vote of 48-0 and Representative Frizzell (R-Indianapolis) is the House sponsor.

SB 313 urges the legislative council to assign to a study committee, during the 2014 legislative interim, the topic of authorizing a county, city, or town to collect a law enforcement run fee from a property owner, if law enforcement officers of the unit are dispatched to a property multiple times within a year to investigate an alleged occurrence of criminal activity on the property.

IACT Position: Support

Moped Bill Passes Out of the House

[HB 1343](#) Motor Driven Cycles (Wolkins, R- Winona Lake)

HB 1343 passed out of the House with a final vote of 81 to 14 and Senator Buck (R-Kokomo) has been named the House sponsor.

This bill attempts to update Indiana law in regards to regulating “motorized bicycles” (mopeds). It creates two classes of motorized bicycles: Class A and Class B. Class A motorized bicycles are 50 cc and above and are treated the same as motorcycles. The operator must pass the motorcycle examination, register with the BMV, have insurance and possess a valid motorcycle license. Class B motorized bicycles are 50 cc and below. The operator must pass a newly designed test by the BMV testing basic traffic knowledge, possess a minimum of an ID card and be at least 15 years of age. Furthermore, no passengers are allowed on Class B motorized bicycles and the operator has the option of registering with the BMV.

IACT Position: Support

TIF Bills Move Forward

[SB 118](#) Redevelopment Commissions and Authorities (Pete Miller, R-Brownsburg)

HB 1266 Local Government Finance Issues (Leonard, R-Huntington)

Two bills passed their house of origin dealing with Tax Increment Financing. While SB 118 has several provisions we can live with, it has a few provisions that we find problematic. The problematic areas are as follows: It prohibits Redevelopment Commissions from using eminent domain. It forces TIF areas that were created before July 1, 1995 to expire, and it also prohibits using TIF for fiber optics.

HB 1266 requires a Redevelopment Commission to hold a public hearing to determine TIF pass through (which we support), however it puts a threshold on the amount of property that can be TIFed in each county without underlying taxing unit approval. The limit is set at 12% based on assessed value or geographical territory. Currently, six counties are already at their max – Clark, Decatur, Gibson, Spencer, St. Joseph, and Whitley.

IAC Position: Neutral on most provisions, opposed to a few provisions.

Flexibility in Construction Contracts Moving In Both Houses

HB 1196 Construction Managers as Constructors (Truitt, R-West Lafayette)

SB 261 Construction Managers as Constructors (Hershman, R-Wheatfield)

HB 1196 passed out of the House with a final vote of 58 to 38 and SB 261 passed out of the Senate with a final vote of 48 to 0. Representative Truitt has been named the House sponsor for SB 261 and Senator Hershman has been named the Senate sponsor for HB 1196.

These two proposals authorize public agencies to employ construction managers as constructors (CMc) for certain construction projects. Most CMc contracts are taxpayer friendly because they generally require a commitment by the construction manager to deliver a project within a guaranteed maximum price (GMP) for the construction, remodeling, rehabilitation, or repair of buildings or other facilities owned by a public agency. However, HB 1196 was amended in committee to limit this contract option to state educational institutions only. If you feel like this is an important option for local units, please contact Justin Swanson at jswanson@citiesandtowns.org.

IAC Position: Support