



March 27, 2015

IACT Team Preparing for Annexation Bill Hearing

Welcome to this week's addition of IACT's Legislative Summary. Committees were very busy this past week, as there are only two more weeks left for bills to come out of committee in the second house. IACT's Legislative Team is preparing for next Tuesday when the annexation bill (SB 330) will be heard in the House Government and Regulatory Reform committee. We expect it to be amended substantially. Read more below about the annexation bill and other important issues that IACT is tracking. Please stay in contact with your legislators to let them know of the local impact these bills will have on your community!

Annexation Bill in House Committee on Tuesday - Please Continue Talking with Your State Representatives about this Issue!

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

SB 330, in its current form, is a terribly concerning proposal which changes municipal annexation drastically. The language which passed the Senate 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 and expected to be heard in House Government & Regulatory Reform Committee on Tuesday, where an amendment is likely. 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 as it passed the Senate 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.
- 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 from remonstrators – 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, where people are annexed against their will. 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

Bill Would Put Municipal Budgets in Hands of Counties 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, such review would still subject the entire budget to being held up by the county. Further, 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. IACT opposes the county having binding review over any portion of municipal budgets.

Please talk to your legislators about this issue. HB 1433 was heard in Senate Local Government on March 18, where testimony was offered. The bill is expected to be scheduled for a second committee meeting on Wednesday, April 1 at 1:30 p.m. where a vote is likely. 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](#), please reach out ***before*** Wednesday's committee meeting. 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

Local Economic Development Projects in Jeopardy

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

SB 460 passed out of the House last week with a final vote of 52-40. Because the House version is different from the Senate version, the bill is now up for a concurrence or dissent by the author in the Senate. If the Senate author concurs on the changes made in the Senate, which is likely, the bill will then move to the Governor's desk for his signature. SB 460 puts a three year moratorium, with a few narrow exceptions, on the Department of Health from approving the licensure of comprehensive care health facilities, new or converted comprehensive care beds or the certification of new or converted comprehensive care beds for participation in the state Medicaid program. Even worse, the bill requires complete construction design plans to have been submitted to the State Department of Health and the Division of Fire and Building Safety not later than March 1, 2015. This provision directly and retroactively impacts local economic development projects. We NEED the governor to take an active stance against SB 460 and veto the bill when it reaches his desk. Please contact the governor directly through the Indiana Alliance for Quality Senior Living website [here](#). This may be the final opportunity to defeat SB 460.

IACT Position: Oppose

Bill Gives Locals New Flexibility for Investments in Special Sales

HB 1281 – Local Government Investments (Rep. Soliday, R-Valparaiso; Sen. Charbonneau, R-Valparaiso)

This bill was introduced in response to a situation in Porter County, where the county sold a hospital and had limited investment options for the proceeds. While this situation does not happen often, HB 1281 gives a new option for investment so that if the sale of a capital asset owned by a political subdivision exceeds \$50 M, then the unit may 1) require some or all of the proceeds be deposited into a separate fund, 2) authorize some investment in the same manner as money in the next generation trust fund may be invested, or 3) establish a charitable nonprofit foundation to hold some or all of the proceeds. If a nonprofit is established, a registered investment advisor must be consulted, and the bill puts in place other various conditions. This bill also contains a provision requested by the libraries, which was added on a 2nd Reading amendment in the House and states certain government offices, including cities and towns, are required to deposit funds on the next business day if the receipts exceed \$500 (current law is \$100).

IACT Position: Support Flexibility in Investments for Special Circumstances

Internal Controls Bill Requires DLGF to Deny Budget upon Second Audit that Finds Training was Missed

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

The Senate Committee on Local Government voted unanimously to pass HB 1264 on Wednesday, and the bill is now eligible for 2nd Reading on Monday in the Senate. 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. Personnel is defined as an officer or employee of a political subdivision whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, state government, a political subdivision, or another governmental entity. Unfortunately, the bill contains a harsh penalty provision that ties compliance with this new training requirement to budget approval. Specifically, if an SBOA audit finds that the political subdivision has not adopted the internal controls or that personnel have not received 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 Internal Controls; Oppose Budget Penalty

Regional Cities Concept Continues But Funding Still a Question

HB 1403 Regional Cities (Rep. Torr, R-Carmel; Sen. Charbonneau, R-Valparaiso)

HB 1403 was heard in Senate Appropriations on Thursday, with Mayor Allan Kauffman (Goshen) and Mayor Tom Henry (Fort Wayne) on hand to testify in support of the bill and to urge the Senate to restore funding to the Regional Cities Initiative in the budget bill. The committee voted unanimously to pass HB 1403 after a few amendments were offered that tie the Regional Cities program to more oversight by the General Assembly, requiring approval of IEDC grants by the State Budget Agency and requiring the program be re-evaluated each budget year. The Governor's [Regional Cities](#) initiative is a result of a study conducted by the IEDC in 2014 that involved IEDC leaders visiting and researching how other states and communities have grown their economies

through regional efforts. HB 1403 provides a mechanism in statute for regional partners to form a development authority that will work on long-term strategic plans and facilitate significant public-private investment. The idea is for the regional development authority described in HB 1403 to be the group that submits applications to the IEDC for Regional Cities funding. HB 1403 passed the House 85-8 and is sponsored in the Senate by Sen. Ed Charbonneau (R-Valparaiso). The appropriation for grant funds is contained in the budget bill, [HB 1001](#). The Governor's budget proposed \$84 M for the Regional Cities Initiative. Unfortunately, the appropriation took a major hit in the House and was reduced to only \$10 M per year.

IACT Position: Support

Bill Passes Senate Committee to Create Optional 'Broadband Ready' Community Designation

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

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. The bill is sponsored by freshman Sen. Erin Houchin (R-Salem), whose district includes area that is un-served or under-served when it comes to broadband access.

IACT Position: Support

Lawmakers Still Pondering Language "Fix" for Dark Store Assessment Crisis

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

SB 436 was heard in Ways & Means earlier this month, 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. Most notably, 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 Position: Support Assessment Language

Abandoned Housing Bill is Heard in House Committee

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

SB 415 was heard in the House Local Government Committee on Thursday morning. Unfortunately, the committee ran out of time and was unable to hear from all the people who came to testify on the bill. The committee plans to convene again on Monday morning to continue the testimony and will likely consider amendments and vote on the bill on Thursday at its regularly scheduled meeting time. 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 has concerns is that the bill removes 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.

IACT Position: Support; Have concerns about removing foreclosure settlement conferences

Bill that Simplifies Local Option Income Taxes Receives a Hearing in the Senate

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

HB 1485 was heard in the Senate Tax and Fiscal Policy Committee this week. Amendments are being considered for the bill and it likely be voted out of committee on Tuesday of next week. 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 currently evaluating the proposed amendments.

IACT Position: Support

Greenwood Added to Food and Beverage Bill

HB 1044 — Food and Beverage Taxes (Morrison, R-Terre Haute; Boots, R-Crawfordsville)

On Tuesday, the Senate Committee on Tax and Fiscal Policy amended HB 1044 before passing the bill out by a vote of 10-0. In addition to Rockville, Greenwood was added to the list of cities and towns that have the authority to discuss a local food and beverage tax not to exceed 1% of the gross retail income received by the merchant. Revenue generated from Rockville's food and beverage tax may only be used for storm water, sidewalks, streets, parks, parking improvements necessary to support tourism in the town and public safety as well as the pledge of money for bonds, leases or other obligations incurred for the aforementioned authorized expenditures. Revenue generated from Greenwood's food and beverage tax may only be used for public safety and bonds, leases or

other obligations for public safety. The amendment also grants a food and beverage tax on transactions that occur in a travel plaza located next to the Indiana toll road not to exceed 1% and the revenue generated are distributed to the Northern Indiana Tourism Development Commission. This new authority applies to a travel plaza located in Elkhart, LaGrange, LaPorte, Porter or Stueben County. HB 1044 is now on 2nd reading in the Senate.

IAC Position: Support

New Training Requirement for Police Reserve Officers

1242 — Reserve Officer Training (Leonard, R-Huntington; Banks, R-Columbia City)

On Tuesday, the Senate Committee on Homeland Security and Transportation passed HB 1242 with a final vote of 10-0. On Wednesday, it was ordered engrossed and is now on 3rd reading in the Senate. HB 1242 requires police reserve officers to complete mandatory in-service training in interacting with persons with mental illness, addictive disorders, mental retardation, autism, developmental disabilities, and Alzheimer's disease or related senile dementia. It also requires training concerning human and sexual trafficking and high-risk missing persons.

IAC Position: Neutral

Transparency in Local Government and School Financing Moves Forward

SB 369 — Publication and Internet Posting of Information (Pete Miller, R-Avon; Zent, R-Angola)

On Tuesday, the House Committee on Government and Regulatory Reform amended Sb 369 before passing it with a final vote of 9-0. The amendment provides more flexibility to a political subdivision (other than a county) by allowing the publication of notices in a locality newspaper that circulates in the political subdivision instead of in a newspaper that is published in the county and circulates in the political subdivision. SB 369 also requires local governments and school corporations to provide certain information to the Department of Local Government Finance (DLFG). After July 1, 2016, DLGF is required to publish an annual financial and operational summary of each political subdivision on the Indiana transparency Internet website. It also requires a political subdivision that has a public web site to publish a link to the Indiana transparency web site. On Thursday, the Senate ordered SB 369 engrossed and is now on 3rd reading for a final vote.

IAC Position: Support

Amendment Anticipated to Ensure State Agency is Responsive to Cities and Towns

HB 1300 — Ordinances Related to Building and Housing Laws (McMillin, R-Brookville; Boots, R-Crawfordsville)

On Wednesday, the Senate Committee on Local Government voted HB 1300 out of committee with a final vote of 4-2. SB 369 prohibits a county, municipality, or township from adopting an ordinance that requires or would have the effect of requiring a landlord to participate in a Section 8 program of the federal Housing Act of 1937 or a similar program concerning housing. The bill specifies that an ordinance or other regulation adopted by a political subdivision that qualifies as a fire safety law or a building law must be submitted to the Fire Prevention and Building Safety Commission (Commisson) for review within 30 days of adoption by the political subdivision and is not effective until it is approved by the Commission. SB 369 also allows a Commission member to submit an adopted ordinance if the political subdivision does not submit its ordinance within 30 days. IACT anticipates a 2nd reading amendment to put a reciprocal shot clock on the Commission to respond to the city or town that submitted the ordinance or the ordinance is deemed approved by the Commission.

IACT Position: Neutral

Gaming Bill Amended in Committee

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

On Thursday, the Senate Appropriations amended HB 1540 but did not vote it out of committee. IACT anticipates a vote on the amended bill early next week. The amendment delays live dealers at racinos until 2021, makes the promotional free play deduction for casino and racinos permanent, specifies the process for entering into tribal-state compacts concerning Indiana gaming and provides that, after June 30, 2015, the racino wagering tax is based off of 89.5% of AGR rather than 91.5% under current law. IACT will continue to evaluate the amendment and watch this bill closely as it continues to move through the process.

IACT Position: Watching

Municipally Owned Electric Utilities and Customers Negatively Impacted by One-sided Bill

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

After amending SB 309 on 2nd reading, the House ordered the bill engrossed and is now up for a final vote in the House early next week. The amendment modified the effective date of the bill to grandfather in certain annexations that are already in the process of being completed. As amended, after May 19, 2015, a municipality that undergoes an annexation and owns and operates an electric utility is prohibited from petitioning the Indiana Utility Regulatory Commission (IURC) to change the assigned service area of the municipally owned electric utility to include the newly annexed area. It provides that the prohibition does not affect a petition filed with the IURC before May 20, 2015 and pending before the IURC on May 20, 2015. Without the ability to petition the IURC, the municipal utility must reach an agreement with the uncompromising incumbent electric utility, which made it clear during committee testimony they have no intention of letting customers off their line. For more information on this bill, [please click here](#). Contact your legislators this weekend and urge them to vote "No" on SB 309.

IACT Position: Oppose

Bill to Develop Recommendations on Common Issue Related to Trails Moves Out of Committee

HB 1471 – Recreational Trails Guidelines (Friend, R-Macy; Houchin, R-Salem)

On Monday, the Senate Committee on Natural Resources amended HB 1471 before voting it out of committee with a final vote of 7-1. The amendment gives the Division of Outdoor Recreation (Division) of the Department of Natural Resources additional time to develop recreational trails guidelines by moving the effective date from October 1, 2015 to March 1, 2016. The amendment also requires the Division to development guidelines to address use by utility facilities. On Thursday, the Senate ordered HB 1471 engrossed and is now on 3rd reading and should be voted on early next week.

IACT Position: Support

Bill to Collect Data on Indiana's Water Resources Passes Clears Committee

SB 473 – Voluntary Monitoring of Water Resources (Charbonneau, R-Valparaiso; Koch, R-Bedford)

On Monday, the House Committee on Natural Resources passed SB 473 with a final vote of 10-0. It has been reassigned to the House Committee on Ways and Means because it has a fiscal impact. SB 473 This bill requires the Department of Natural Resources (DNR) to establish a program under which volunteers will monitor both ground water and surface water and provide the monitoring data to the Natural Resources Commission (NRC) and the DNR. DNR is required to train the volunteers participating in the program in the proper collection and transmission of data, determine the location and ensure the adequacy of the monitoring wells used in the program and conduct water resource monitoring independent of the program to verify the quality of the data derived from the program. The bill also requires the DNR to give priority to areas in which temporary failures of insignificant ground water withdrawal facilities have been confirmed and areas in which the potential exists for ground water withdrawals to exceed the natural replenishment of the aquifer.

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