



March 7, 2014

Time to Take Action on Personal Property Tax Elimination Bills

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

HB 1001 State and Local Taxation (Turner, R-Cicero; Hershman, R-Buck Creek)

Time is running out! As you know, both proposals to begin eliminating Indiana's personal property tax (SB 1 and HB 1001) have advanced into the final stage of the session, Conference Committees. It is important that your lawmakers hear from you frequently between now and the end of the legislative session. There are many points to convey and we need your help!

1. If something more than a study panel is going to advance during this legislative session, the Senate's plan (inserted into HB 1001) comes closer to addressing the concerns of municipal government than any other ideas currently being considered by lawmakers.
2. Tell your legislators you **oppose** any final legislative proposal that includes a county by county option to eliminate the tax on new equipment! County by county elimination via a COIT Council approach leaves too many cities, towns, counties, schools, libraries, townships and other local units with little to no voice in a decision to eliminate a relied upon source of revenue. What's being considered is NOT a local option and represents a serious step backwards for economic development and growth in our state!
3. Encourage Governor Pence to follow up on his openness for replacement revenues for any loss caused by the Senate's small business exemption. Any dollars lost to city and town government as a result of this proposal will have a detrimental effect on our ability to grow Hoosier communities and enhance the quality of life for our citizens.

Key negotiators for HB 1001 are the conference committee conferees -- Representatives Eric Turner (R-Cicero) and Greg Porter (D-Indianapolis) and Senators Brandt Hershman (R-Buck Creek) and Karen Tallian (D-Portage). Please ask your lawmakers to speak with these conferees, as well as House and Senate leaders to express your concerns.

A summary of the bills as they stand now is inserted below. Please be sure to review it and ask the IACT staff any questions you have. And, if you need any assistance with phone numbers or email addresses, **please refer to [this site](#)**.

REPEAT – Time is running out to have your say! Call your legislators today and tell them the Senate's proposal currently in HB 1001 is acceptable, the House's "local option" by COIT Council is completely contradictory to the cooperative, regional approach that has been successful in our state and urge the Governor to follow up on his support for revenue replacement!

[View a summary of the amended bills.](#)

Bills of Concern

Concerns Still Exist with Rental Housing Inspection Bill

HB 1403 Regulation of Residential Rental Property (McMillin, R-Brookville; Holdman, R-Markle)

The favorable language that was inserted into HB 1403 during the Senate Local Government Committee was, for the most part, removed by a second reading amendment on the Senate floor. IACT continues to work on this important public safety bill, however, more important changes are needed.

The bill provides a \$5 limitation on rental registrations whether the registrant be a single property owner or the owner of a rental community (which is defined as a property with five or more units). It also allows property owners to be exempt from government inspection if they arrange for their own inspection. However, only one unit in an entire rental community would need to be inspected. The bill lists eight subject areas for the owner inspections, but gives no detail as to standards for the inspection.

IACT hopes to see changes made in conference committee.

IACT Position: Opposed without necessary changes to the bill.

Debt Service Reserve Limitations are Still a Concern

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

HB 1062 was heard in conference committee on Thursday. Currently, the bill permits only 15% (rather than 50%) of the budget estimate for the annual debt service payments to be kept in reserve. IACT has been lobbying to insure that 50%, or one full bond payment, can be kept in reserve, so there is no cash flow problems and no need to engage in short-term borrowing.

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

Volunteer Firefighters Serving on Councils Language Now In HB 1318

HB 1318 Various Election Law Matters (Richardson, R-Noblesville; Pete Miller, R-Brownsburg)

The controversial amendment which was added in SB 335 to “undo” the conflict of interested legislation that we worked so hard on a few years ago by allowing 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 is now in HB 1318. IACT is opposed. We hope to see the provision removed in conference committee.

IACT Position: Oppose Conflict of Interest Reversion

Gun Buy Back Programs Headed to Conference Committee

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

Senator Tomes filed a dissent on the changes made in the House to SB 229. Representatives Eberhart and Lawson and Senators Tomes and R. Young have been added as conferees. A conference committee date has yet to be scheduled.

The most relevant amendment allows locals to conduct gun buyback program with private funds or grants rather than an outright prohibition on conducting these programs. The amendment also inserts portions of Representative Lucas' (R-Seymour) [HB 1048](#) dealing with gun rights on school property.

Finally, the amendment restores local police department discretion in how they handle confiscated guns. It provides that the law enforcement agency may retain a firearm and issue the firearm to a law enforcement officer within the agency, trade a firearm in for credit to a licensed firearm dealer rather than only selling the firearm to a licensed firearm dealer and allows a firearm that may be destroyed to be sold to a salvage company.

IACT Position: Opposed

Other Bills

Conference Committee Hearing Invalidated on Annexation Bill

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

On Thursday, a conference committee hearing was held on SB 273. However, because the meeting notice wasn't posted, many concerned parties did not attend. Because of the snafu, the hearing will have to be repeated. It is scheduled for Monday.

When SB 273 came to the House, an amendment was proposed that would have stopped involuntary annexations. IACT worked toward improving the language. The bill in its current form establishes requirements for an agreement executed and recorded after June 30, 2014, between a municipality and owners of real property, if all or part of the consideration for the agreement is that the owners agree to the annexation of their property or agree not to remonstrate or withdraw a remonstrance against an annexation. It now also allows 100% of owners of land to file a petition requesting annexation of noncontiguous property and removes the requirement that the landowners reside within the annexation territory. Additionally, with certain exceptions, the bill places a moratorium on annexations from April 1, 2014, to July 1, 2015; requires a court with regard to a remonstrance filed after March 31, 2014, and before July 1, 2015, to award attorney's fees and expenses to the signers of the sufficient remonstrance of an amount up to \$40,000; and urges the legislative council to assign annexation topics to a summer study committee.

We expect to see further changes to the bill in conference committee regarding the contiguity provisions.

IACT Position: Neutral because of compromises made.

Legacy TIF Area Expiration is Biggest Concern

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

SB 118 contains many provision regarding Tax Increment Financing areas. Most of the changes we are ok with, however, the bill currently contains language which requires TIF areas created before July 1, 1995 to expire by 2025 or when obligations are paid, whichever is later. There is a provision in the bill, however, that exempts the

Indianapolis downtown TIF area from this expiration provision and many other cities and towns would like to see the same exemption.

The other bill we were watching that contained an unfavorable TIF provision was amended on Tuesday in the Senate Tax and Fiscal Policy committee. The provision putting a threshold on the amount of property that can be TIFed in each county without underlying taxing unit approval was removed. This was good news, but we will be watching to make sure it doesn't reappear in SB 118.

IACT Position: Neutral on most provisions, opposed to TIF expiration requirement.

House Concurs with Senate Changes on Fire and Building Safety Bill

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

The House concurred with the Senate changes on HB 1301 this week. IACT had concerns with a provision of the bill which would have prohibited local plan review of buildings. This provision was modified and improved in the Senate. The bill still classifies town houses as Class 2 Structures and this is something we opposed. In addition, it 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.

IACT Position: Pleased that local plan review prohibition was removed/not pleased with the town house and licensing provision.

Dissent Filed on HB 1187 – Water/Sewer Territory Dispute Bill

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

Rep. Ron Bacon filed a dissent on HB 1187 although the bill may or may not have a conference committee hearing (he may withdraw his dissent and concur with the Senate changes). This week IACT was made aware of a clarification which is needed to the bill so that all extraterritorial water and sewer rates are not subject to the IURC review. We are working to get this change made in a trailer bill – SB 53.

One of the main provisions in the bill is that the Indiana Utility Regulatory Commission (IURC) is required to settle disputes between municipalities over claims to service territories outside of their municipal boundaries. For a municipal ordinance that is adopted after December 31, 2012 which attempts to claim exclusive service territory outside of the municipal boundaries and the municipality's utility has filed a petition seeking review of the rate and charges for "wholesale sewage service" provided to or by the utility: (1) the municipality shall petition the IURC for approval of the regulatory ordinance; (2) the IURC shall encourage the utilities potentially affected by the regulatory ordinance to reach a mutual agreement about service in the area, and shall assume jurisdiction if the utilities are unable to reach a mutual agreement; (3) the IURC, after assuming jurisdiction and upon considering certain factors, shall issue an order resolving the issues presented by the petition concerning the regulatory ordinance; and (4) the municipality may enforce the regulatory ordinance if there is a final judgment concluding all administrative and judicial proceedings on the petition concerning wholesale sewage service rates. The bill provides that if a municipality, after December 31, 2012, adopts a regulatory ordinance and the municipality's utility has not filed a petition with the IURC concerning "wholesale sewage service": (1) the municipality shall petition the IURC for approval of the regulatory ordinance; (2) the IURC, upon considering certain factors, shall issue an order resolving all issues presented in the petition, including the enforceability of the ordinance; (3) if the IURC order approves the municipality's regulatory ordinance, the municipality may enforce the regulatory ordinance; and (4) if the IURC does not approve the municipality's petition, the municipality may modify and resubmit the petition, and if the IURC does not approve the resubmitted petition the regulatory ordinance is void,

but the municipality may petition the IURC to rescind or modify its order on the resubmitted petition after five years.

IACT Position: Keeping a close watch.

SB 53 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 was heard in conference committee this week. It 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.

A provision that we find troubling is that the bill 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. In addition, the bill 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 – we are working on making tweaks in conference committee

Zoning Commitments By Legislative Body and After an Annexation

HB 1216 Zoning Commitments and Annexation (Truitt, R-West Lafayette; Head, R-Logansport)

Representatives Truitt and Klinger and Senator Head (Sen. Stoops was not available) met in Conference Committee to consider a draft report on HB 1216. If the draft report is signed by all 4 of the conferees it will go to both chambers for an approval vote and then to the Governor. During the discussion on the draft report it was noted that the bill will still do what it was introduced to do, which is to provide a place to modify or terminate written commitments obtained before the area burdened by the commitments was annexed. There is a gap in current zoning laws concerning what body can act, and when, in modifying and terminating previously granted written commitments before the land was annexed. The legislative body of the annexing municipality would decide if the commitments would be modified or terminated unless the area is already under the jurisdiction of the annexing municipality because it is in the 2-mile fringe or an area plan commission. The annexing municipality's plan commission would have an opportunity to make a recommendation and hold a public hearing before the council acts. Other technical amendments were mentioned that would clarify that commitments obtained during a rezoning would ultimately be decided by the council. However, if the council wanted a less stringent commitment the plan commission would get 45 days to comment back to the Council. No one testified in opposition to the bill or the draft conference report. No other topics are contemplated for this bill at this time.

IACT Position: Support

Changes to the ASA (annuity savings) Portion of Public Employees and Teachers Retirement Benefits

HB 1075 Public Pensions (Burton, R-Greenwood; Walker, R-Columbus)

Conferees, Representatives Burton and Niezgodski and Senators Walker and Tallian, discussed a draft conference committee report that was the product of a compromise with representatives of the public employees and teachers as well as the Governor. All parties recognized that the guaranteed interest rate of 7.5% on the ASA portion of the pension was not sustainable because of market forces and with government employers paying rates to subsidize this earning rate. Representative Burton described the draft report as the best that could be done and that it would give the Pension Management Oversight Commission (PMOC) time to develop a plan for a better “landing pad” for those about to be retired and those who retired a while ago. His comments were understood as follows: Instead of outsourcing the investment of the ASA portion of the pension funds the investment would stay with INPERS for the next 3 years. There would be a change in the investment interest rate as it would be tied to ten-year Treasury Note averaged twice a year plus 1 1/2 %. So if the market rate was 4% then the earnings would be 4 plus 1.5 or 5.5%. However the investment rate would not be below 2% and not go above 10%. Basically there is until 2017 before it can be outsourced and be totally market driven. PMOC will continue to look for a fair solution for the soon-to-rotate employees and to explain how the retirement program works. No one testified against the draft report and all parties pledged to keep working on the issue. The draft report was not available for the preparation of this synopsis of the committee meeting.

IACT Position: Support

Flexibility in Construction Contracts

HB 1196 Construction Managers as Constructors (Truitt, R-West Lafayette; Hershman, R-Buck Creek)

Conferees, Representatives Truitt and Lawson and Senators Hershman and Taylor, discussed a draft conference committee report concerning allowing construction managers as constructors for certain public works projects. It is an option that would require a commitment by the construction manager to deliver a project within a guaranteed maximum price (GMP). Representative Truitt described a preliminary draft report of the bill and his comments were understood as follows: After compromises, this authority to use alternative construction method would sunset in 6 years following adoption. Universities would be the only entities allowed to have this option for the first 3 years with local governments then having 3 years to use it. Senator Taylor thanked the inclusion of WBE and MBE provisions into the bill so that they can be measured. The amount of “self-perform” work is currently set at 10% but the final report may have it going up to 20%. There appears to be “lowest and best bid” language in the draft too. Testimony on the bill was generally favorable although some contractors would have liked to see a few different things. One person thought that the process lacked transparency. The draft report was not available for the preparation of this synopsis of the committee meeting.

IACT Position: Support