

MARCH 15, 2013

The *Legislative Summary* is a weekly e-newsletter intended to provide you with a sampling of important bills being debated at the Statehouse. For additional information about the legislative session, continue monitoring IACT's Legislative webpage, or contact us directly at (317) 237-6200.



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- IN Announcements: IACT Legislative Day 3/19, Federal Health Care Reform Regional Workshops Planned for April!

IN Action This Week: Top 5 Things to Know

- 1. State budget testimony continues in Senate Appropriations Committee.
- 2. Mayors were on hand to testify on Anti-Meth bill this week. Thanks to Mayors Winnecke (Evansville), Senter (Plymouth), Tyler (Muncie) and Thallemer (Warsaw).
- 3. CONCERNS: A proposal (SB 376) to limit annexation and growth, and bills (SB 528/HB 1544) that would result in revenue loss for cities and towns top the list of concerns. See full list of concerning bills below.
- 4. Amended SB 235 expands IURC jurisdiction. Home-rule threatened! Holders of a video services license that do direct marketing (door-to-door sales) will be regulated by the IURC.
- 5. IACT Legislative Day next week on Tuesday, March 19th! Info at: www.citiesandtowns.org.

For questions or information on legislation, please contact our Legislative Team or any IACT Staff Member.



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IN Local Roads & Streets Initiative: Increased Funding a Top Priority!

Funds Dedicated to Locals in Budget Bill and Future Hearings Scheduled

<u>HB 1001</u> – Biennal Budget (Rep. T. Brown, R-Crawfordsville; Sen. Kenley, R-Noblesville) Currently, one-half of the amounts appropriated to the State Police Department for its operations must be taken off the top of the Motor Vehicle Highway Account (MVHA). HB 1001 removes this requirement and frees up an estimated \$80 M - \$90 M in additional funds to the MVHA. Of these additional funds, the share for cities and towns is \$12 M - \$13.5 M for FY 2014 and FY 2015 respectively. The funds allocated to the Bureau of Motor Vehicles from the MVHA are not changed.

Currently, 99.848% of Sales and Use Tax revenue is deposited in the state General Fund, 0.123% is deposited in the Commuter Rail Service Fund, and 0.029% is deposited in the Industrial Rail Service Fund. HB 1001 will not affect the Commuter Rail Service Fund or the Industrial Rail Service Fund. However, it does reduce the distribution to the General Fund to 98.348% and diverts 1.5% to the MVHA. This new allocation to the MVHA results in \$107.1 M for FY 2014 and \$111.4 M for FY 2015. Of these additional funds, cities and towns will receive \$16.1 M in FY 2014 and \$16.7 M for FY 2015.

In summary, cities and towns stand to receive \$24 M over the next two years by removing the off-the-top distribution for ISP operating expenses and \$32.8 M over the next two years by changing the distribution of sales and use taxes. In total, HB 1001 allocates an estimated additional \$56.8 M to cities and towns over the next two years.

HB 1001 was heard in the Senate Committee on Appropriations on March 14, 2013 and testimony was limited to public universities. Chairman Kenley has scheduled HB 1001 for testimony at the following dates and times:

03/21/20139:00 AM Room 431 Appropriations03/26/201330 minutes after adjournment Room 431 Appropriations03/27/20134:00 PM Room 431 Appropriations03/28/20139:00 AM Room 431 Appropriations04/04/20139:00 AM Room 431 Appropriations

IACT Position: Support

Strings Attached to Federal Road Funding Cut with New Exchange Program

<u>HB 1067</u> – Federal Fund Exchange Program (Rep. Cherry, R-Greenfield; Sen. Becker, R-Evansville) This bill was heard on March 7, 2013, in the Senate Committee on Homeland Security, Transportation and Veterans Affairs and has since been reassigned to the Senate Committee on Appropriations where it has yet to be assigned a hearing date.

HB 1067 establishes the federal fund exchange program to allow a county, municipality, or metropolitan planning organization that receives funds from the Federal Surface Transportation Program to exchange the federal funds at a rate of not less than \$0.75 of state funds for each \$1 of federal funds. The Department of Transportation is charged with administrating the program and the municipality is still required to provide matching funds of 10% of the project cost.

IACT supports this bill because using state funds instead of federal funds for local transportation projects will reduce the number of federal requirements tied to the use of the money. This in turn will reduce project administration costs and will allow the project to be completed in a more efficient manner.

IACT Position: Support

Alternative Fuels Tax Will Bring Additional Revenue to Municipalities

<u>HB 1324</u> – Motor Fuels (Rep. Frye, R-Greensburg; Sen. Eckerty, R-Yorktown) This bill has been scheduled for a hearing in the Senate Committee on Homeland Security, Transportation, and Veterans Affairs on March 19, 2013.

HB1324 provides for the imposition of the motor carrier fuel tax and surtax by imposing the existing rates on the diesel or gasoline gallon equivalents of the various forms of natural gas sold. The funds generated from this tax and surtax will be distributed to the Motor Vehicle Highway Fund among others. Local units may receive up to \$1.3 M in FY 2014 and \$1 M in FY 2015 in additional transportation revenues from the bill through the MVH and Highway Road and Street Fund.

IACT Position: Support

Use Tax Bill Held in Committee

<u>SB 479</u> – Use Tax on Gasoline (Sen. Walker, R-Columbus; Rep. Dermody, R-La Porte)

This bill was heard in the House Committee on Ways and Means on March 13, 2013 but was held for a vote for a later date.

SB 479 specifies that the collection point for state Gross Retail and Use Tax on the sale of gasoline is moved to the first purchaser of gasoline from a refiner, a terminal operator, or supplier. Under current statute, the gasoline Sales Tax collection point is at retail. This bill also changes the method of calculating the Sales and Use Tax on gasoline. Currently, the Sales Tax is calculated based on the actual price of gasoline sold. This bill would instead levy a 7% Use Tax based on the average price of gasoline and the number of gallons sold.

IACT Position: Support

IN Bills of Concern

This Bill Will Reduce Tax Base -- \$17.2 Million Loss to Locals

HB 1544 – Various Tax Matters (Turner, R-Cicero; Hershman, R-Buck Creek)

HB 1544 was amended on third reading of the House to remove problematic language which provided counties, cities and towns with a local option to exempt personal property. The bill still contains language which changes the caps on the common areas of rental properties from 3% to 2% which results in a loss of \$17 M in property taxes statewide. The bill passed the House by a 65-30 vote and now heads to the Senate for consideration. It has been assigned to the Senate Tax and Fiscal Policy Committee.

IACT Position: Opposed

Casino Revenue Targeted

SB 528 Gaming (Boots R-Crawfordsville; Rep. Davis, R-Portland)

This bill has been assigned to the House Committee on Public Policy but has not been assigned a hearing date. IACT has heard that SB 528 may be heard on March 27, 2013 and that amendments will be offered during committee. IACT will continue to follow this bill closely.

SB 528 authorizes the use of limited mobile gaming systems, authorizes table games at the racinos and allows riverboats to move inland to adjacent properties without the approval of the Indiana Gaming Commission.

This bill provides an adjusted gross receipts (AGR) deduction of up to \$2 M annually for promotional free play provided by a riverboat casino or racino to patrons living outside of Indiana effective in FY 2014. The deduction reduces the taxable base for the riverboat wagering tax and the racino wagering tax. The amount of funds allocated to municipalities that benefit from these taxes will be reduced.

IACT Position: Have Concerns/Watching

Bill Which Prohibits Locals from Setting Employee Terms of Employment Passes Committee <u>SB 213</u> - Employee Benefits (Boots, R-Crawfordsville; Speedy, R-Indianapolis)

SB 213 prohibits a local government from adopting an ordinance that restricts private employers from setting their own employee benefits, terms of employment, working conditions or attendance or leave policies that exceed the requirements of federal or state law, rules or regulations.

Because the provision is a limitation on home rule power, IACT opposed the bill. We see the most problematic provision being the inability to pass a local law on a working condition as a circumstance could arise in a disaster or public health situation where local control would be necessary.

IACT Position: Opposed

Annexations Would be Limited to 15% of AV Per Year

<u>SB 376</u> – Gross Assessed Value Limits on Annexation (Buck, R-Kokomo; Mahan, R-Hartford City) SB 376 provides that for annexations adopted after June 30, 2013, a municipality may not annex territory that would result in an increase in the total gross assessed value of the municipality by more than 15% in the ensuing calendar year (as compared to the total gross assessed value of the municipality before the effective date of the annexation ordinance), regardless of whether the increase in assessed value results from one or more than one annexation. It also provides that for annexations adopted after June 30, 2013, the effective date of an annexation ordinance may not be more than one year after the date the annexation ordinance is adopted. (Current law provides that the effective date of an annexation ordinance in some annexations may be postponed for not more than three years.) The bill passed out of the Senate 44-5 and has been assigned to the House Government and Regulatory Reform Committee.

With the 15% limitation, IACT believes the bill may be problematic for some cities and towns and for example may prevent a city/town from being able to annex an *entire* subdivision. We would like to know

your thoughts on this bill would affect you locally. We need your feedback to provide data and information to the House Committee Chair. Please send Rhonda Cook an email with your comments rcook@citiesandtowns.org.

IACT Position: Oppose

Bill Would Prohibit Local Door-to-Door Solicitation Laws from Applying to Cable Companies <u>SB 235</u> - Video Service Providers (Holdman, R-Markle; Koch, R-Bedford)

An amendment was added in the House Utilities Committee which provides that local peddler laws do not apply to cable company peddlers. The cable association says that it uses door-to-door marketing to homes that have satellite dishes. The companies try to get these residents to switch to cable. Several cities and towns require door-to-door solicitors to register and undergo a background check regardless of what the peddlers are selling. The laws also usually set acceptable times of solicitation.

Under this provision, the Indiana Utility Regulatory Commission would now regulate cable company peddlers and local laws would be pre-empted. IACT has concerns about this provision. We believe this provision would block citizens who have complaints from seeking local assistance.

We understand that the following communities have local peddler laws: Anderson, Arcadia, Bloomington, Carmel, Chesterfield, Cicero, Columbus, Fishers, Franklin, Greenville, Greenwood, Kokomo, Indianapolis, Lafayette, McCordsville, New Whiteland, Ossian, Thorntown, Westfield, Whiteland.

If you have feedback our comments on this bill, please email Rhonda Cook at <u>rcook@citiesandtowns.org</u>. We are currently gathering data.

IACT Position: Opposed to Peddler Law pre-emption

Bill Addresses Annexation Matters Between Cities and Towns

SB 284 - Annexation by Town Outside of City Boundaries (Buck, R-Kokomo; Cherry, R-Greenfield) SB 284 removes a requirement that a town obtain the consent of a second or third class city before annexing within three miles of the city. It prohibits a town from annexing within one mile of the corporate boundaries of a second or third class city unless: (1) the town is located in a different county than the city; or (2) the annexation is obtained by consent of the landowners. It also allows a town to annex within an area that extends: (1) more than one mile outside the boundaries of a second or third class city; and (2) less than three miles; if any annexation by the town does not extend more than one mile outside the corporate boundaries of the town. The bill passed out of the Senate and has been assigned to the House Government and Regulatory Reform Committee.

IACT Position: IACT Legislative Committee voted to oppose the bill, however, we do know there are some towns that support the bill.

Senator Kenley's TIF Bill Now In House Control <u>SB 325</u> – Redevelopment Commissions and Authorities (Kenley, R-Noblesville; Cherry, R-Greenfield)

SB 325 makes various changes to the redevelopment statute. It passed the Senate 44-5 and now heads to the House for consideration. It has been assigned to the House Government and Regulatory Reform Committee.

IACT Position: Opposed, but working on potential changes to the bill

Bill Attempted to Make Clarification on RDC Powers, but Now May Be Worse <u>SB 346</u> – Redevelopment Commissions (Head, R-Logansport; Friend, R-Macy)

SB 346 provides that redevelopment commissions may provide financial assistance to the owner of commercial property within a redevelopment or economic development area to assist the owner in constructing, rehabilitating or repairing commercial property. An amendment was added by Senator Kenley to require that such financial assistance would require approval by the unit's fiscal body. While the

bill as introduced was favorable because it made clarifications to existing powers, we now have concern about the additional approvals that were added by the amendment.

It passed the Senate 44-5 and now heads to the House for consideration. It has been assigned to the Commerce, Small Business and Economic Development Committee.

IACT Position: Support the concept

Bill Expands IURC Jurisdiction...Again

<u>SB 385</u> – Regional Sewer Districts (Charbonneau, R-Valparaiso; Wolkins, R-Winona Lake) SB 385 allows a purchaser of wholesale sewage service to petition the IURC for the settlement of a dispute (currently, going to court is the only option). It also provides that certain fees shall be deposited into the public utility fund instead of being deposited with the state treasury. There is also a provision which provides that a contract for the construction of a municipal sewage works may not require certain landowners to waive the right to remonstrate against annexation by the municipality. The bill passed the Senate 48-2 and has been assigned to the House Environmental Affairs Committee.

IACT Position: Opposed to more IURC expansion

Is Your City or Town Planning an Inspection Program?

<u>HB 1313</u> – Regulation of Residential Leases (Rep. Speedy, R-Speedway; Sen. Holdman, R-Markle) HB 1313 puts a one year moratorium on the start of any new rental housing inspection programs which require a landlord to obtain a permit or license or pay a fee. It sends the issue of rental housing inspections programs to summer study.

This bill has been assigned to the Senate Committee on Local Government but has not yet been scheduled for a hearing. IACT will continue to work to mitigate the impact of this bill on cities and towns. If your city or town is planning or brainstorming an inspection program, please contact IACT.

IACT Position: Oppose

Video Services Franchise Fees

HB 1432 (Lutz) contained language that would eliminate cable franchise fees. The bill did not receive a hearing, but we are still keeping a close watch on this issue.

IACT Position: Oppose

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IN Legislative Initiatives

Click here for more about IACT 2013 Initiatives and Legislative Team

IACT Initiative Passes Both Houses, Headed to Conference Committee

<u>365</u> – Utility Facility Relocation (Sen. Crider, R-Greenfield; Rep. Koch, R-Bedford)

SB 365 authorizes a unit of local government to enter into an agreement with a utility concerning the relocation of the utility's facilities for a major highway, street, or road project undertaken by the local unit. The agreement must include a date for relocation and conditions under which the utility is excused from meeting the date, including a force majeure clause.

This bill was heard in the House Committee on Utilities and Energy where it was slightly amended. It passed out of the House on March 12, 2013 and has been sent back to the Senate. Since this bill was amended in the second house, it will go to conference committee.

IACT Position: Support

House Committee Discusses Prescription Requirement for First Time <u>SB 496</u> - Control of Ephedrine and Pseudoephedrine (Sen. Yoder, R-Middlebury, Rep. McMillin, R-Brooksville)

On March 13, 2013, this bill was heard in the House Committee on Courts and Criminal Code where Mayors from Evansville, Muncie, Warsaw and Plymouth testified that this bill is a step in right direction but does not go far enough to address the meth-manufacturing epidemic in Indiana.

During committee, Rep. Wendy McNamara (R-Mount Vernon) offered an amendment that would have allowed a unit to pass an ordinance that would require a prescription for the purchase of ephedrine and pseudoephedrine products. Although the amendment was not voted on due to a lack of a second motion, there was a great discussion for the first time in the General Assembly regarding a prescription requirement. SB 496 passed out of committee with a unanimous vote. Be on the look out for a second reading amendment to lower the annual limit from an eight-month supply to a six-month supply.

IACT Position: Support

Indiana Mayors & IACT in the News this Week on Anti-Meth Efforts:

Indiana mayors arguing for tougher cold medicines law (Indianapolis, WTHR TV)

Lawmakers advance several bills to curb illegal drug use (IndyPolitics)

Indiana mayors urge lawmakers to get tougher on meth (Ft. Wayne WANE TV)

Bill Limiting Ephedrine Purchases Goes to House Floor (WIBC Radio)

IN House panel backs tougher cold medicines limits, not prescription-only (Greenfield Reporter)

Indiana mayors arguing for tougher cold medicines law (AP, Posted by Trust Local)

Mayors push for tougher meth laws (South Bend Tribune)

Next week is <u>Meth Awareness Week</u> for IACT. Join us for Legislative Day at the Statehouse on Tuesday, March 19th & follow us on Twitter at **@INCitiesTowns** for more!

Senate Expands Authority for Food and Beverage Tax in Committee

<u>HB 1070</u> - Cloverdale food and beverage tax (Rep. Baird, R-Greencastle, Sen. Bray, R-Martinsville) This bill authorizes the Cloverdale town council to impose a 1% Food and Beverage Tax on taxable food and beverage transactions in the town that could go into effect as early as September 1, 2013. All funds collected must go into a separate account and may only be spent on the financing, construction, operation, maintenance, and debt service of sanitary sewers or wastewater treatment facilities, drainage or flood control facilities and water treatment, storage, or distribution facilities.

On March 12, 2013, HB 1070 was amended in the Senate Committee on Tax and Fiscal Policy and was passed out. The amendment authorizes the town of Fishers to adopt a food and beverage tax and requires the revenue to be spent to reduce the town's property tax levy or on economic development.

IACT advocated for statewide authority for municipalities to adopt a food and beverage tax through Rep. Baird's <u>HB 1071</u>. However, the General Assembly voted this measure down during committee earlier in the session.

IACT Position: Support

Abandoned Homes

IACT is working on amendments to be added to SB 433 in the House Local Government Committee. The amendments would help communications between counties and cities and towns regarding abandoned properties and the tax sale process.

LOIT Distribution

IACT is asking the state to insure that locals are getting their full distribution of local option income taxes. Due to the processes at the Indiana Department of Revenue, locals are only receiving distributions based on tax returns filed. The state is keeping the local portion from those taxpayers who don't file returns. We are told that in order to rectify the problem, the Department must buy a costly computer system. IACT is urging the state to rectify this problem by taking any necessary steps.

This week, SB 544 was heard in the House Ways and Means Committee. The bill has many provisions, but one tweaks the LOIT trust accounts that the state keeps on behalf of the counties. The balances in the trust accounts are based on estimates. Mayor Allan Kauffman of Goshen testified on the bill explaining that the Department of Revenue needs additional funding so that a computer system can be developed to track LOIT on a real-time basis versus on estimates.

PSAPs

HB 1304 dealing with Public Service Answer Points did not get a hearing in the House Ways and Means Committee. IACT may find it possible to have language added to another bill to address some needed clarifications.

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IN Other Bills

Local Units Would Be Able to Use TIF for Senior Housing <u>HB 1359</u> - Age-restricted Housing Programs (Huston, R-Fishers; Broden, D-South Bend)

HB 1359 allows a redevelopment commission to use tax increment financing for housing developments that are for seniors. The bill passed out of the House by a 41-7 vote and as of yet, has not been assigned to a Senate Committee.

IACT Position: Support

Bidding Process Updated for Indiana Ports

1589 – Ports of Indiana Procurement and Public Works (Rep. Ober, R-Albion; Sen. Head, R-Logansport)

This bill increases the threshold at which the Ports of Indiana (Port) is required to publicly bid construction projects or purchases of equipment, materials, and supplies from \$25,000 to \$150,000. It authorizes a Port to declare an emergency in the case of fire, flood, windstorm, casualty, mechanical failure, or if the health, safety, or welfare of the public or necessary governmental operations are endangered by loss or damage. HB 1589 requires a declaration of an emergency must be recorded in the minutes of the governing body. The bill further provides that in the absence of a declared emergency, ports are prohibited from making separate contracts for a construction project or purchase of equipment if the aggregate of the contracts is more than \$150,000.

On March 12, 2013, HB 1589 was heard in the Senate Committee on Tax and Fiscal Policy where it was voted out and will be heard on second reading next week.

IACT Position: Neutral

Amendment in Committee Revamps Historic Preservation Tax Credit <u>SB 4</u> – Altering Historic Preservation Districts (Sen. Arnold, D-La Porte; Rep. Dermody, R-La Porte)

SB 4 was heard March 14, 2013 in the House Local Government Committee and passed out of committee with an amendment. The amendment mirrors HB 1318, which transfers the administration of

the Historic Rehabilitation Tax Credit (HRTC) from the Division of Historic Preservation and Archeology of the Department of Natural Resources (DHPA) to the Office of Community and Rural Affairs (OCRA). Among other changes to eligibility for the HRTC, it increases the minimum amount of qualified expenditures from \$10,000 to \$25,000, requires the property be vacant for a one-year period and creates a new scoring system for the awarding of the credit.

This bill provides the exclusive method for removing the designation of a historic district. It requires that a petition requesting the designation of a historic district be filed with the legislative body of the unit by the owners of: (1) a building, structure, or site designated as a single site historic district; or (2) by at least 60% of the owners of the real property in a multi-parcel historic district. The historic preservation commission under time constraints would conduct a public hearing, make findings on statutory criteria and make a recommendation to grant or deny the petition. The legislative body must act within 45 days after receiving the petition from the commission by adopting an ordinance granting a petition by: (1) a majority vote, if the recommendation of the commission is to grant the petition; or (2) by a two-thirds vote, if the recommendation of the commission is to deny the petition. If the legislative body fails to act upon the petition within the 45 day period, the petition is considered granted or denied in accordance with the recommendation of the commission. An ordinance must be adopted if the petition is deemed granted and recorded which is the designation removal date.

IACT Position: Neutral

Municipal Utility Surplus Funds Amended in Committee SB 349 – Municipal Utility Funds and Economic Development (Sen. Head, R-Logansport; Rep. Friend, R-Macy)

This bill was heard in the House Committee on Local Government on March 14, 2013 where it was amended but no vote was taken. The amendment adds wastewater and wastewater collection to IC 8-1-31, which is a statute that allows a public utility providing water service to file with the IRUC rate schedules establishing a Distribution System Improvement Charge (DSIC). This statute allows the automatic adjustment of the public utility's basic rates and charges to provide for recovery of DSIC costs.

SB 349 authorizes a city or town council, with the approval of the utility service board, to donate funds from the municipally owned utility's surplus earnings to a local economic development organization only if all debt obligations of the utility are met before the donation is made to the organization.

IACT Position: Support, Investigating Amendment Impact

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IN Announcements



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