



Indiana Association of
Cities and Towns

LEGISLATIVE SUMMARY

INDIANA ASSOCIATION OF CITIES AND TOWNS LEGISLATIVE E-NEWSLETTER



MARCH 29, 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 Action This Week: Top 5 Things to Know

1. TESTIMONY NEEDED – HB 1313 Bill Restricting Rental Inspections Scheduled for Wednesday, April 3 @ 1:30 PM in Room: 130
2. Meth Bill Passes House 3rd Reading and Goes Back to Senate for Approval
3. HB 1307 and HB 1137 on Extraterritorial Water/Sewer Rates Amended in Committee on Thursday, March 28
4. Abandoned Housing Amendment Adopted in SB 433 on Thursday, March 28
5. SB 385 on Wholesale Sewage was Heard in House Environmental Affairs Committee on Wednesday, March 27

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!

Senate Budget Proposal Expected Next Week

[HB 1001](#) – Biennial Budget (Rep. T. Brown, R-Crawfordsville; Sen. Kenley, R-Noblesville)

As HB 1001 is currently drafted, 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 tweaking 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.

Rep. Kenley, Chairman of the Senate Committee on Appropriations, predicts he will release the Senate budget proposal on April 4, 2013. Chairman Kenley has suggested he likes what the House has done with road funding. IACT will continue to watch this bill for any changes while in the Senate.

The remaining dates for scheduled testimony is as follows:

03/28/2013 9:00 AM Room 431 Appropriations

04/04/2013 9:00 AM Room 431 Appropriations

IACT Position: Support

New Exchange Program Passes Senate

[HB 1067](#) – Federal Fund Exchange Program (Rep. Cherry, R-Greenfield; Sen. Becker, R-Evansville)

This bill was read for a third time in the Senate on March 26, 2013 where it was ordered engrossed with a final vote of 47-0 and is headed to conference committee where IACT will work to improve the flexibility of the program.

HB 1067 establishes the federal fund exchange program to allow a county, city or town 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 for capital projects. The Department of Transportation is charged with administering the program and the municipality is still required to provide matching funds of 10% of the project cost.

IACT Position: Support

Final Committee Vote on Additional Road Funding Expected Next Week

[HB 1324](#) – Motor Fuels (Rep. Frye, R-Greensburg; Sen. Eckerty, R-Yorktown)

This bill was heard in the Senate Committee on Tax and Fiscal Policy on March 26, 2013 where it was held for a final vote next week.

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 is actively working on a 2nd reading amendment to institute a local road impact fee on electric vehicles that would be collected during the registration process with the BMV. It is estimated that this fee will generate approximately \$1 M in FY 2014 and \$1.5 M in FY 2015. Revenues generated from this fee will be deposited into the Local Road and Street Account.

IACT Position: Support

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IN Bills of Concern

ALERT! Committee Hearing Date Set!

[HB 1313](#) – Regulation of Residential Leases (Rep. Speedy, R-Indianapolis; Sen. Holdman, R-Markle)

HB 1313 puts a one-year moratorium on the start of any new rental housing inspection programs that 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.

Chairman Head has confirmed that this bill has been scheduled for a hearing on Wednesday, April 3rd, 2013 at 1:30 pm. IACT has heard there will be at least one amendment offered during committee that will clarify there is a one-year moratorium on any new fees related to a rental inspection program. Essentially, the only way a city or town could implement a rental housing inspection program is if they provided the service for free.

We need all of you to contact Chairman Head and express your concerns that this bill is a detriment to local economic development, public safety and an intrusion on home rule community standards. Please be sure to give local examples of the necessity of these inspection programs. Chairman Head can be reached at s18@in.gov or (317) 232-9488.

You Can Bet on Amendments to Gaming Bill Next Week

[SB 528](#) – Gaming (Sen. Boots, R-Crawfordsville; Rep. Davis, R-Portland)

This bill was recommitted to the House Committee on Ways and Means and was heard on Wednesday, March 27, 2013. The committee appeared divided on the current state of the bill with some members questioning why the only revenue generating section of the bill (permitting live table games at racinos) was taken out and others seeing this provision as an expansion of gaming in Indiana. SB 528 was held in committee and will be heard again next week. IACT will continue to watch this bill closely for expected amendments.

IACT Position: Support

Extraterritorial Water/Sewer Rates – The Sequel

[HB 1307](#) Extraterritorial Utility Rates and Charges (Braun, R-Zionsville; Merritt, R-Indianapolis)

Last year, HEA 1126 passed into law which allowed users of a municipal water utility who live outside of the municipal boundaries to petition the Indiana Utility Regulatory Commission for a review of their rates in charges when their rates and charges are 15% or greater than what inside customers pay. The opportunity to petition occurs at the time when the municipality is proposing a rate increase. Under HB 1307, however, there is a six month window starting in July for the outside users of water *and sewer* to petition the IURC for a review of rates and charges when the rates and charges 50% or more than what inside customers pay. The opportunity to petition is regardless of whether there is a rate increase proposal by the municipality.

IACT is opposed to this bill in its current form. Any outside water or sewer customer in any municipality could use the opportunity to petition the IURC even if their petition is unwarranted. The municipality would then be forced to defend its case before the IURC. Note that if enacted, this law would apply to any municipality that provides water or sewer – even those that have opted out of the IURC.

HB 1307 was heard and passed out of the Senate Utilities Committee on Thursday morning. Testifying on the bill were IACT's Rhonda Cook, Dan Cutshaw of GRW Engineers (representing Whitestown) and Mayor Ryan Daniel of Columbia City. One amendment was added to the bill containing language we had requested. It requires an extraterritorial user who wants to petition the IURC to first petition the municipality. The municipality must issue a written verification that extraterritorial rates are 50% or more. This is intended to help reduce frivolous petitions with the IURC. Another amendment was added that IACT opposed and states that a utility company must be out of compliance before a municipality can buy it back. The initial amendment also contained language that required a "buy back" decision go to referendum, but that provision was removed by the committee. The bill is now eligible for 2nd Reading.

IACT Position: Opposed

Extraterritorial Water/Sewer Rates – A Trilogy

[HB 1137](#) IURC Review of Extraterritorial Water Rates (Frizzell, R-Indianapolis; Merritt, R-Indianapolis)

Last year, HEA 1126 passed into law which allowed users of a municipal water utility who live outside of the municipal boundaries to petition the Indiana Utility Regulatory Commission for a review of their rates in charges when their rates and charges are 15% or greater than what inside customers pay. The IURC assured us last year that 120 days was sufficient time for them to review the rates and charges. Under HB 1137, however, the IURC is afforded 60 extra days to make the review if there is "good cause." IACT is opposed this provision unless the 60 days are granted under the condition that all parties to the proceeding agree. Delays could force the municipality to have to rebid a project, push the project into the next construction season and cost the ratepayers more money.

HB 1137 was heard and passed out of Senate Utilities Committee on Thursday morning. We were pleased that in committee, the bill was amended so that before an "extension of time for good cause" be granted, all parties to the *proceeding* have to agree to the extension. The word proceeding, however, said "petition," so the bill will have to be amended on second reading.

IACT Position: Opposed

Bill Which Prohibits Locals from Setting Employee Terms Passes the House**[SB 213](#) - 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.)

After two delays, the bill was finally voted upon by the House. It passed by a 54-40 vote.

IACT Position: Opposed

Bill Expands IURC Jurisdiction...Again**[SB 385](#) – 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. Further, it 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 was heard in the House Environmental Affairs Committee on Wednesday. No vote was taken.

IACT Position: Opposed to more IURC expansion

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IN Legislative Initiatives

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Another IACT Initiative Passes Both Houses**[SB 496](#) – Meth (Sen. Yoder, R-Middlebury, Rep. McMillin, R-Brooksville)**

On March 25, 2013, this bill was heard on the House floor for the final time and was ordered engrossed with a final vote of 91-1. Because there were minor amendments offered in the second house, SB 496 is headed to conference committee.

IACT Position: Support

IACT Initiative Passes Both Houses, Headed to Conference Committee**[365](#) – 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. Since this bill was amended in the second house, it will go to conference committee.

IACT Position: Support

Food and Beverage Tax Authority for Fishers and Cloverdale**[HB 1070](#) - Cloverdale food and beverage tax (Rep. Baird, R-Greencastle, Sen. Bray, R-Martinsville)**

This bill authorizes the Cloverdale town council to adopt 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. HB 1070 also authorizes the town of Fishers to adopt a 1% Food and Beverage Tax and requires the revenue to be spent to reduce the town's property tax levy or on economic development.

HB 1070 has been sent back to the House for conference committee.

IACT Position: Support

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.

Abandoned Property Bill Heard in the House

SB 433 Abandoned Property (Paul, R-Richmond; Hamm, R-Richmond)

As it came from the Senate, SB 433 establishes a procedure to permit a county executive to dispose of certain properties that did not sell at the tax sale to a person able to repair and maintain the properties. It also provides that before the county executive may transfer properties that did not sell at a tax sale to a nonprofit corporation, an abutting property owner, or a person satisfactorily able to repair and maintain the property, a person with a substantial interest in the property must be given an opportunity to redeem the property. It also requires certain notices concerning demolition and removal under the unsafe building law be served on each person with a known or recorded substantial property interest and authorizes a municipality or county to bring an action to collect unpaid expenses relating to the abatement of high weeds and grass. (Under current law, the municipality or county may obtain only a lien on the property containing the high weeds and grass.)

IACT and others have been working diligently on further amendments to SB 433. On Thursday, IACT's supported amendment was adopted by the House Local Government Committee! Rep. John Price of Greenwood was extremely helpful in drafting and promoting the amendment, which facilitates communication between cities and towns and counties regarding abandoned/vacant properties eligible for tax sale. The amendment also allows a city or town to access the courts in order to deem a property as abandoned.

IACT Position: Support

LOIT Distribution

SB 544 State and Local Tax Administration (Hershman, R-Buck Creek; Brown, R-Crawfordsville)

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.

Two weeks ago, SB 544 was heard in the House Ways and Means Committee. The bill has many provisions, but one is to allow local units to receive a LOIT distribution when the LOIT trust balance accounts held by the state reach 50% instead 150%. While we support this measure, it still does not make up for the fact that we are still not certain that locals are receiving the correct distribution. 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.

IACT Position: Support greater accountability of LOIT revenues

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IN Other Bills

Amendments Adopted in Committee

[HB 1186](#) - Incorporation of towns (Rep. Price, R-Greenwood; Sen. Bray, R- Martinsville)

HB 1186 was heard in Senate Committee on Local Government where it was amended and passed out with a vote of 7-0. This bill provides that proceedings for the incorporation of a town may be initiated by filing a written petition signed by at least 10% of the owners of land in the area of the proposed town with the county executive of the county that contains all or a majority of the area of the proposed town.

Under current law, a 3rd class city located within three miles of the proposed incorporation must give consent of the incorporation. The adopted amendment requires the third class city to either consent or dissent within 90 days. The second adopted amendment requires the commissioner to state why a petition for incorporation is deficient in order to give the proposed town an opportunity to fix the deficiencies.

The bill provides that if the county executive finds that the petition satisfies the statutory requirements, the county executive may either:

- (1) adopt an ordinance incorporating the town;
- (2) adopt a resolution to place a public question concerning incorporation on the ballot; or
- (3) deny the petition.

Under current law, if a public question is denied, a petition for the same area may not be brought for a one-year period. This bill increases the one year prohibition to two years.

IACT Position: Neutral

Property Division Bill Held in Committee for Amendments

[HB 1433](#) - Recording of New Lots (Rep. Rhoads, R-Corydon; Sen. Grooms, R-Jeffersonville)

HB 1433 was heard in the Senate Committee on Local Government on March 27, 2013 and was held for amendments next week. This bill provides that if an instrument dividing land requires issuance of a new tax identification number:

- (1) the county auditor may not endorse the instrument; and
- (2) the recorder may not record the instrument;

unless the plan commission executes a written confirmation that the property division complies with local regulations concerning minimum lot frontage, width, and area, and with the subdivision and platting of land.

This bill would not apply retroactively because these requirements do not apply to a subdivision plat or planned unit development that has already received plan commission approval or plan director approval. As the bill is currently written, plan commission may not charge a fee for issuing a written confirmation. IACT is actively working for an amendment to be adopted next week that would allow a plan commission to charge a fee for the services being provided.

IACT Position: Neutral

Bill Passes the House Which Gives All Municipalities Access to Insurance Proceeds for Structures Damaged by Fire or Explosion

[SB 169](#) Insurance Proceeds Set Aside

SB 169 applies the law concerning insurance proceeds escrow deposits to all cities and towns, phased in over three years. (Current law applies only to first and second class cities.) It provides for insurer notice to a municipality of an insurance claim filed for structure damage caused by fire or explosion and provides for municipality notice to an insurer of estimated or actual costs to the municipality for demolition or rehabilitation of the structure under the unsafe building law. SB 169 requires a deposit of a certain amount of available insurance proceeds to an escrow account. Repeals: (1) a definition made obsolete by the bill; and (2) current notice requirements that apply to Gary and Hammond.

An amendment was added to the bill in the House Insurance Committee which requires municipalities that want to participate in the program to register with the state fire marshal and pay a \$100 fee to the state! It also sets limitations for the availability of the funds. The bill passed the House by a 97-0 vote. We are hopeful that the Senate author will dissent on the bill so that it can go to conference committee where further changes can be made.

IACT Position: Support the Concept, Oppose Limitations and Fee

Annexation Waiver Bill Passes Out of Committee

[SB 285](#) Waiver of the Right to Remonstrate Against Annexation (Buck, R-Kokomo; Karickhoff, R-Kokomo)

SB 285 passed out of the Government and Regulatory Reform Committee on Tuesday. The bill requires that information be clear in the chain of title to a property that an annexation waiver exists. IACT supported the bill as it will provide greater transparency to property owners that an annexation waiver agreement is in place and applies to the property. IACT requested an amendment to the bill which further refined the language. The amendment was adopted.

IACT Position: Support

Bill Debated in House Committee - Allows Excess Utility Funds to be Used for Economic Development

[SB 349](#) Utilities; Economic Development (Head, R-Logansport; Friend, R-Macy)

SB 349 passed out of the House Local Government Committee. It gives a local unit of government the authority to donate funds from the municipally owned utility's surplus earnings to a local economic development organization, as long as certain obligations of the municipally owned utility are met before the donation is made. An amendment was added to the bill which allows an investor-owned public utility to add an improvement charge for sewer service if the IURC grants approval.

IACT Position: Support the Concept.

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IN Announcements



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