



Indiana Association of  
Cities and Towns

# LEGISLATIVE SUMMARY

INDIANA ASSOCIATION OF CITIES AND TOWNS LEGISLATIVE E-NEWSLETTER



MARCH 8, 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.

## In this Newsletter

*(Click on title to go straight to that section)*

- [IN Action This Week](#): Top 5 Things to Know
- [IN Local Roads & Streets Initiative](#): Wheel Tax, Alternative Fuels & Budget Battles
- [IN Bills of Concern](#): Gaming, Annexation, Tax Assessment Changes, Rental Inspection Moratorium, More IURC Oversight, and Redevelopment Commission Bills Top Concerns
- [IN Legislative Initiatives](#): Utility Relocation Initiative and Anti-Meth Bill Heard in Committee This Week!
- [IN Other Bills](#): Mass Transit, Officer Privacy and Historic Preservation Districts
- [IN Announcements](#): IACT Legislative Day 3/19, Federal Health Care Reform Regional Workshops Planned for April

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## IN Action This Week: Top 5 Things to Know

1. State budget testimony begins in Senate Appropriations Committee. They are expected to spend the next several weeks holding budget hearings before advancing a proposal by mid-April. Gov. Pence's proposed 10% income tax cut still in question.
2. Meth bill in House Courts & Criminal Code Committee. Local testimony needed! Wednesday, March 13<sup>th</sup> 1:30 PM (EDT) Room: 156-C.
3. CONCERNS: See our "[Bills of Concern](#)" section
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. Join us for IACT's Legislative Day on Tuesday, March 19, where members will hear a briefing from IACT's legislative team and then head to the Statehouse for a luncheon with legislators with remarks from Governor Pence and greetings from State Agency heads. Registration information can be found by going to our [Legislative Day webpage](#). Or, download the [registration brochure](#).



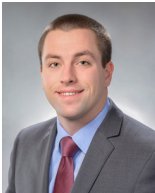
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**For questions or information on legislation, please contact our Legislative Team or any [IACT Staff Member](#).**



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[\(Return to top\)](#)

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

### **Second Opportunity to Allow Municipalities to Help Themselves**

#### **[SB 389](#) - County Excise Surtax and Wheel Tax (Sen. Boots, R-Crawfordsville, Rep. Lehe, R-Brookston)**

This bill passed out of the Senate with a vote of 37-11 and is the mirror bill of HB 1117, which died in the House. SB 389 has been assigned to the House Ways and Means Committee but has not yet received a hearing.

IACT has been in continuing conversations with fiscal analysts and Chairman Brown in order to take leadership's temperature on this bill. IACT believes HB 1117 died from a combination of misinformation, political grandstanding and lack of education. IACT plans to educate House members on the substance of this bill in the upcoming weeks in order to dispel any misinformation.

**IACT Position:** Support

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### **Alternative Fuels Tax Will Bring Additional Revenues to Municipalities**

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

This bill was passed out of the House with a vote of 94-0 and has been assigned to the House Committee on Homeland Security, Transportation and Veterans Affairs but it has not yet been scheduled for a hearing.

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

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### **Pilot Program Yet to Be Assigned a Hearing Date**

#### **[HB 1366](#) – Highway and Street Funding Pilot Program (Rep. Soliday, R-Valparaiso)**

HB 1366 has moved over to the Senate and has been assigned to the Committee on Tax and Fiscal Policy. This bill authorizes the Department of Transportation to develop a pilot program to explore alternative highway and street funding methods. Specifically, any pilot program may not last more than 24 months and must include vehicle miles traveled component. This bill has yet to be assigned a hearing date or a Senate sponsor.

**IACT Position:** Support

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### **New Program to Give Municipalities Flexibility with Road Projects**

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

This bill passed out of the House with a solid 93-0 vote and Senator Becker is the Senate sponsor. On March 7, 2013, HB 1067 was heard in the Committee on Homeland Security, Transportation and Veterans Affairs and has since been reassigned to the Committee on Appropriations where it is expected to pass out.

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 (STP) to exchange the federal funds at a rate of not less than \$0.75 of state funds for each \$1 of federal funds.

The Indiana Department of Transportation (INDOT) 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. For an example, a city or town wants to build a bridge on a road that is 30 feet wide. The city or town would not be able to use STP funds because federal regulations would require the bridge to be 50 feet wide but the road itself is only 30 feet wide. Under this exchange program, the STP funds can be exchanged with state funds from INDOT and the city or town would no longer have to build the bridge to federal standards. According to the bill, the exchanged federal dollars can be used for any purpose approved by INDOT.

**IACT Position:** Support

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## **Battle of the Budgets**

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

On March 7, 2013, the Senate Committee on Appropriations heard testimony on the House-approved budget, which calls for \$700 million more in school and road spending than Governor Pence's proposed budget and left out his 10% personal income tax cut.

The Senate committee will continue to hold budget hearings over the next several weeks before voting on HB 1001 in after the April revenue forecast report is released in April.

IACT Position: Support

[\(Return to top\)](#)

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## **IN Bills of Concern**

### **Gaming Bill Would Cost Cities and Towns**

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

This bill passed out of the Senate with a vote of 32-19 and has been assigned to the House Committee on Public Policy but has not yet been scheduled for a hearing. IACT understands the widespread negative impact this bill has on gaming and non-gaming communities across Indiana and will continue to work to mitigate this impact.

IACT Position: Oppose

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### **More Cuts for Cities & Towns in Tax Bill**

#### **Various Tax Matters (Turner, R-Cicero; Hershman, R-Buck Creek)**

[HB 1544](#) - While some unfavorable language was removed on a third reading in the House which would have made it a county, city or town option to eliminate taxes on personal property, HB 1544 still contains language that we don't find acceptable. The bill changes the assessment on the common areas of rental properties. Currently the common areas of these properties are capped at 3%. The bill changes the property tax cap on common areas to 2% resulting in a \$17.2 million loss of property tax revenue to locals statewide. The bill passed the House 65-30 and has now been assigned to the Senate Tax and Fiscal Policy Committee where it awaits a hearing.

IACT Position: Oppose

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## Bill Targets City & Town Rental Inspection Programs

### Regulation of Residential Leases (Speedy, R-Southport; Holdman, R-Markle)

[HB 1313](#) - This bill targets city and town rental housing inspection programs. The Indiana Apartment Association is pushing this bill to stop our programs, some of which operate on fee revenue from landlords. The bill assigns the issue of rental housing inspection programs to summer study AND puts a moratorium on any new programs from being initiated for over a year. In addition, the wording of the bill would not allow rental properties to be charged any type of fee for any purpose during the moratorium (inspection, trash collection, hydrant rental, storm water, etc.). The bill passed the House 60-33 and has been assigned to the Senate Local Government Committee.

IACT Position: Oppose

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## Senate Bill Impacts Regional Sewer Districts

### Regional Sewer Districts (Charbonneau, R-Valparaiso; Wolkins, R-Winona Lake)

[SB 385](#) - SB 385 provides that a utility that: 1) either provides or receives wholesale sewage service; and 2) negotiates to renew or enter into a new contract for wholesale sewage service on expiration of such a contract; may file a petition with the utility regulatory commission or a court to resolve a dispute, but not both. Also, deposits of certain fees paid by municipal utilities shall be deposited in the public utility fund. (Under current law, the fees are deposited in the state treasury.) It also 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 by a 48-2 vote and has been assigned to the House Environmental Affairs Committee.

IACT Position: Oppose as currently drafted

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## Bill Prohibits Home Rule on Employee Benefits

### SB 213 -Employee Benefits (Boots, R-Crawfordsville; Speedy, R-Indianapolis)

SB 213 provides that, unless federal or state law provides otherwise, a county, city, town, or township (unit) may not establish, mandate, or otherwise require an employer to provide to an employee who is employed within the jurisdiction of the unit: (1) a benefit; (2) a term of employment; (3) a working condition; or (4) an attendance or leave policy; that exceeds the requirements of federal or state law, rules, or regulations. The prohibition does not apply to: (1) employees of a unit; (2) contracts entered into by a unit and the third party; (3) economic development incentives awarded by a unit or a redevelopment commission established by a unit; or (4) training and other qualifications established for a private provider of public health and safety services within the jurisdiction of the unit. IACT opposes the bill because it is counter to home rule. The bill passed the Senate by a 38-12 vote and has been assigned to the House Labor Committee. It is likely to receive a hearing next week.

IACT Position: Oppose

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## Annexation Bill Limits Growth

### Gross Assessed Value Limitation on Annexations

[SB 376](#) - SB 376 states 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. 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 the Senate 44-5 and is yet to be assigned to a committee in the House.

IACT Position: Oppose

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## Annexation Issue for Cities and Towns

### Annexation by Town Outside City Boundaries

[SB 284](#) - This bill removes the 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 43-6 in the Senate and is yet to be assigned to a committee in the House.

IACT Position: Oppose

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## Working on Improvements to Redevelopment Commission Bill

### Redevelopment Commissions and Authorities

[SB 325](#) - SB 325 makes several changes to the redevelopment statute. It provides for more oversight on certain redevelopment matters by the unit's legislative body. Some of the parameters, however, are already common practice of redevelopment commissions. While IACT opposes the bill as it is currently drafted, we are seeking changes to the bill to make improvements.

IACT Position: Oppose as currently drafted

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## Bill Removes Home Rule Power over Door-to-Door Sales for Cable Providers

### [SB 235 - Video Services \(Holdman, R-Markle\)](#)

SB 235 started out being a relatively simple bill. It amends the required contents of the utility regulatory commission's annual report to the regulatory flexibility committee concerning video service. However, in the House Utilities Committee on Thursday, an amendment was added which pre-empts cities and towns' home rule power over door-to-door sales for cable providers. Several cities and towns have local ordinances which govern door-to-door sales. For instances, registration of salespeople may be required along with background checks, hours for solicitation may be set locally, etc. The amendment, pushed by the Indiana Cable Association, would require the Indiana Utility Regulatory Commission to handle all door-to-door sales licenses for cable sales solicitations. The Chairman of the Committee, Rep. Eric Koch, did not allow any testimony to be provided on the amendment before it was taken by consent by the committee. IACT and others did not have an opportunity to voice our concern with the amendment at the public hearing on the bill.

IACT Position: Oppose

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## Watching & Working on Redevelopment Bill

### [SB 346 - Redevelopment Commissions and Authorities \(Head, R-Logansport\)](#)

What started out as being a helpful bill because it provided clarification now may be harmful. SB 346 started out with language that clarifies that a redevelopment commission may provide financial assistance to the owner of commercial property within a redevelopment project area or economic development area designated by the redevelopment commission, to assist the owner in constructing, rehabilitating, or repairing the commercial property. When the bill was in the Senate Appropriations Committee, it was amended by Senator Luke Kenley to state that such financial assistance is subject to the unit's legislative body. IACT views this additional language as being problematic in some cases.

IACT Position: Oppose as currently drafted.

### **Video Services Franchise Fees:**

So far, there has been no language moving through the process which would take away cable franchise fees. We continue to keep a watch on this issue.

[\(Return to top\)](#)

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## **IN Legislative Initiatives**

[Click here for more about IACT 2013 Initiatives and Legislative Team](#)

### **[SB 365](#) – Utility Line 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 and requires that the agreement must include a date for relocation. It also specifies that a unit that is responsible for relocation costs shall pay the costs in arrears in accordance with the procedures of the state board of accounts. SB 365 passed the Committee on Utilities and Energy (11-0).

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### **[SB 496](#) - Control of Ephedrine and Pseudoephedrine (Sen. Yoder, R-Middlebury, Rep. McMillin, R-Brooksville)**

On March 6, 2013, the House Committee on Courts and Criminal Code heard testimony on SB 496. Chairman McMillin held a vote on the bill in order to give Mayors and local officials from around Indiana the opportunity to share their stories through pictures and statistics on the negative impacts meth manufacturing has had on their communities. This bill will be heard again on March 13, 2013 at 1:30 pm.

IACT Position: Support

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### **Fair Distribution of Local Income Tax Revenue:**

IACT has been pushing for more transparency and better accounting with the collection and distribution of local option income taxes by the state. SB 544 currently contains language which provides that before August 2 of each calendar year, the budget agency shall provide to each county auditor an estimate of the amount of county income tax that will be distributed to the county, based on known tax rates. It also requires the budget agency to certify before October 1 the amount of a county's certified distribution of county income tax for the following year and provides that a county is entitled to a supplemental distribution of county income tax if the budget agency determines that the balance in the county's trust account exceeds 50% (rather than 150%, under current law) of the certified distributions to be made in the following year. While this language is helpful, we would like to see it go farther. In addition, we understand that the Department of Revenue has requested an additional \$10 million for their budget and we hope that some of these funds will be used to purchase a better computer system that will allow better tracking of local income tax dollars.

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### **Public Service Answering Points – County Should be Responsible / More Transparency with Revenues**

During the first half of session, there was no PSAP language that received a hearing. IACT is hopeful, however, that language can be inserted into a bill during the second half of the session that will insure that E911 fees are duly collected and distributed.



**[HB 1070](#) - 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. According to the fiscal, 11 counties and 12 cities and towns levy a 1% Food and Beverage Tax while Marion County levies a 2% tax. Total receipts in state FY 2011 were about \$69 M.

IACT has been in conversation with the Senator Bray regarding the possibility of expanding this bill to give statewide authority to all communities or adding language to allow municipalities to adopt such a tax if they are within predetermined geographical area of an interstate.

HB 1070 has been assigned to the Senate Committee on Tax and Fiscal Policy and has not yet been assigned a hearing.

**IACT Position:** Support

[\(Return to top\)](#)

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## IN Other Bills

### Mass Transit Faces Uphill Climb in the Senate

**[HB 1011](#) - Mass Transit (Rep. Torr, R-Carmel; Sen. Miller, R-Avon)**

This bill passed out of the House with a vote of 56-39 and has been assigned to the Senate Committee on Local Government. Although it has not been scheduled for a hearing, IACT is expecting it to be heard Wednesday March 20, 2013. Representative Torr and the Senate sponsors are anticipating an uphill climb in Senate.

**IACT Position:** Support

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### Bill's Goal to Protect Privacy of Law Enforcement Officer's Privacy

**[HB 1219](#) - Privacy of Law Enforcement Officer Addresses (Karickhoff, R-Kokomo; Crider, R-Greenfield)**

Senate Local Government Committee members considered HB 1219 but took no vote on it Wednesday. The bill requires a local unit of government that operates a public Internet web site data base containing the names and addresses of property owners to establish a procedure to permit a law enforcement officer or victim of domestic violence to restrict disclosure to the general public of the person's home address. A public internet website data base is one available to the general public on the internet which can then connect a person's home address with the search of a person's name. This would include the GIS systems local governments have been developing and are being used around the state. The bill does permit the unit to charge a reasonable fee for blocking the address and provides some immunity from liability for certain failures to block the disclosure of these addresses.

IACT testified in support of the safety of its law enforcement officers but also that the bill should be expanded to include local government code enforcement officers who are sometimes threatened too. The Association of Indiana Counties opposed the bill because it is concerned about the costs that may be incurred to create this ability to block addresses and to keep the requests current.

**IACT Position:** Supportive of the concept; still investigating the feared magnitude of the costs and whether they will apply to municipalities.



## Committee Heard Bill on Historic Preservation Districts, But No Vote Yet

### **SB0004 - Altering Historic Preservation Districts (Arnold, D-LaPorte; Dermody, R-LaPorte)**

SB 004 was heard March 7<sup>th</sup> in the House Local Government Committee and held for further action. The 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

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