



Indiana Association of
Cities and Towns

LEGISLATIVE SUMMARY



FEBRUARY 26, 2016

It's the final countdown for committee and reading deadlines. There is still plenty of time, however, for anything to happen. Be sure to look at this week's [tracking list](#) to catch up on current important bills concerning municipal government.

Are you trying to figure out what everything means for your community? Attend the free 2016 IACT Legislative Session Recap webinar on Wednesday, March 23, to better understand what is slated to become law in the weeks and months ahead and how it can impact cities and towns of all sizes. [Registration](#) is free for IACT members and available now.

THIS WEEK: THE TOP 5 THINGS YOU NEED TO KNOW

Annexation

- SB 1298 passed the Senate on Thursday of this week by a 39-6 vote. The bill contains two very bad provisions for cities and towns – one removes the economic development exception when remonstrators block an annexation and the other requires all annexations to have 51% consent of the taxpayers being annexed. No public testimony was permitted on the amendments during committee.
- The original content of SB 1298 is good. The bill is an IACT initiative bill to make clean-up changes to the statute after the passage of SEA 330-2015.
- While there is a commitment to remove the bad provisions from HB 1298 during conference committee, the provisions are now eligible to be amended into another bill.
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Road Funding

- Both the House and Senate made much anticipated moves this week as four key bills had road funding language stripped and inserted during committee hearings. As predicted from the first week of session, the road funding discussion is on cruise control for conference committee.
- As both House Republicans and Senate Republicans prepare for the larger battle on road funding discussions, both sides are making strategic moves to gain as much leverage as possible.
- Road funding is without a doubt the dominate issue remaining for the 2016 session. The dialogue changes day to day in regards to who has the upper hand, however, the one constant is that Speaker Bosma and House Republicans are focused on a long term infrastructure plan.
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Mixed Property Tax Bills

- SB 308 was amended in the House Ways and Means Committee this week. Last week, IACT testified in support of the levy growth language (an IACT initiative).
- A concerning provision regarding tax abated properties in TIF areas was removed and the concerning provision regarding farmland assessments was more favorably modified.
- The IACT initiative provision to allow fast growing communities to increase their levy was narrowed. Now, it only applies to one community, but the issue may be considered again in an interim study committee.
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Body Cameras

- This week, the Senate Judiciary Committee passed HB 1019 which deals with public records requests for law enforcement recordings (e.g. from police body cameras or dash cams). As more municipalities consider adopting police body camera programs, we want to ensure there is a uniform framework in place to appropriately deal with public records requests for these recordings.
- One of the most important aspects of this legislation for cities and towns is the requirement that departments retain law enforcement recordings for a set amount of time – 190 days. The bill also contains provisions that detail circumstances under which a local department must release a recording for copying or inspection, and establishes the burden of proof that must be met in court when an individual is denied access to a recording sues to get a copy.
- The bill still needs some work and the author and sponsor have committed that we can continue to work on it in conference committee. We will continue to advocate for a recording retention time of not more than 190 days and will continue working with stakeholders to ensure that locals still have appropriate discretion to respond to public records requests for law enforcement recordings in the best manner for their communities.
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Regional Cities

- Last session, the General Assembly authorized a tax amnesty program and provided that the first \$84 million collected was to fund Governor's Pence Regional Cities Initiative. The Indiana Economic Development Corporation (IEDC) had originally planned to choose only two regions that would receive \$42 million each. However, the IEDC ultimately chose three cities to receive \$42 million each – Evansville, Fort Wayne and South Bend.
- Because only \$84 million was authorized for Regional Cities, the General Assembly must act to authorize any additional tax amnesty money for the third region. The merit of the Regional Cities Initiative is not under question, but Speaker Bosma and others are critical of IEDC's and the Governor's decision to fund the third city without legislative authorization.
- SB 302 and HB 1161 both currently contain language to fund the third region, but the issue has now been tied in with larger negotiations occurring between legislative leadership and the Governor. The outcome will likely not be known until very near to the end of session, especially if it is used to bargain on road funding.
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Annexation Bill Now Containing Negative Provisions Passes

[HB 1298 Annexation \(Negele, R-Attica\)](#)

HB 1298 is IACT's initiative annexation bill to make clean-up changes to the statute after the passage of last year's comprehensive annexation reform legislation, SEA 330-2015. Last week, HB 1298 was heard in the Senate Local Government Committee and two very bad amendments were added. On Thursday of this week, the bill passed the Senate by a 39-6 party line vote.

The committee chairman said it was not his intent for the amendments to stay in the bill. Rather, he was just trying to make a point and the amendments would be removed at conference committee time, so the bill could be returned to its original form. Public testimony was not permitted on the amendments.

While it is good to know that there is a promise by the Chairman that the bad amendments will later be removed from HB 1298, the reality is that now that the language has passed the Senate, it is eligible to be amended into another bill during conference committee time. Therefore, it is possible that a major policy change on annexation could occur in Indiana without any public input allowed in a standing committee.

As for the amendments added that IACT opposes, the first removes the economic development exception that IACT worked so hard to get last year. Under the current law, if 65% of the property owners in the annexation territory (or 75% of the owners of the assessed value) object to the annexation, then the annexation is blocked and can go no further. The economic development exception allows the proposed annexation to proceed to court, even when there is the objection, when an economic development project that meets certain criteria is at stake. Without the economic development exception, it would be possible for one taxpayer whose property lies between the municipality and the project site to block the entire project from happening. The second amendment requires a municipality to get consent of 51% of the taxpayers in the annexation territory before a municipally-initiated annexation can occur, therefore, making all annexations voluntary annexations.

IACT's Position or Proposed Position: Support original contents of HB 1298 – an IACT Initiative Bill; Oppose amendments added in committee.

Road Funding Bills Are Resurfaced in Committee

[SB 67 Supplemental Distribution of Local Income Tax \(Hershman, R-Buck Creek\)](#)

[HB 1001 Road Funding \(Soliday R-Valparaiso\)](#)

As the final week of committee hearings concludes, it was filled with several predictable moves. Multiple bills had language stripped and inserted during committee hearings as the Senate and House work to keep their proposals moving forward. There was a new piece to the puzzle as the Senate looks for mechanisms to aid locals with no new tax increases. The Senate Appropriations committee stripped the gas tax index and cigarette tax increase from HB 1001 but left language establishing a municipal wheel tax. The Senate expanded the language in HB 1001 by allowing municipalities with a population greater than 10,000 to adopt a wheel/excise tax. This is a positive step from the original threshold of 20,000. There was also language added that will place more pressure on Counties to adopt a wheel and excise tax by placing additional restrictions on the allowable uses of Motor Vehicle Highway Account (MVHA) funds. This language is very concerning as it places restrictions on current funding resources, prevents using MVHA funds for road salt and removes language allowing MVHA funds to be used for law enforcement purposes.

What was also clear at the end of the week is both the House and Senate are as committed to their plans as they were from day one. At the top of the list is Governor Pence's proposal to fund a third region of the Regional Cities program. Speaker Bosma announced last week that SB 302 (Regional Cities funding) was struggling to gain enough support in the House but it would be helpful if the Governor showed some support for the House road funding plan. The House has until Monday evening to move SB 302 out of committee.

Legislators still say anything is possible, even finishing the session with no new road funding. The likely result will be the beginning of a multiyear approach to identifying Indiana's needs, discussing feasible revenue options and moving towards a sustainable long term funding mechanism.

IACT's Position or Proposed Position: Supportive of increased local road funding.

Omnibus Property Tax Bill Is Amended in Committee – Heads to House Floor

[SB 308 Property Tax Matters \(Hershman, R-Buck Creek\)](#)

Testimony was taken on SB 308 in the House Ways & Means Committee last week and this week, the bill was amended in committee and passed. The bill now heads to the House floor for second reading. SB 308 is home for various local property tax matters.

The bill previously contained language prohibiting the capture of tax increment on properties that were previously subject to tax abatement, however, this language was removed by the House committee. It said if a property in a TIF area was receiving a tax abatement before the TIF area is created, a local unit is not allowed to capture the increment due to the abatement rolling off. The assessed value must return to the base.

A provision allowing levy growth for fast growing communities (an IACT initiative) was narrowed by the House committee and it now only applies to one community -- the City of Westfield. The bill now requests that this issue be considered during interim study.

The provision regarding farmland assessments was more favorably modified. Under the previous proposed calculation, local governments stood to lose \$4.2 Billion for taxes payable in 2018 and \$8.9 Billion for taxes payable in 2019.

The bill still contains language on market segmentation to address the problems with assessments of big box retail stores.

In addition, a provision was added to the bill setting an expiration date of 2046 for the Indianapolis legacy TIF area.

IACT's Position or Proposed Position: Neutral; Support dark store language.

New Framework for Public Access to Law Enforcement Recordings

[HB 1019](#) Law Enforcement Recordings (Mahan, R-Hartford City)

As more municipalities move to adopt police body camera and dashboard camera programs, it is important to have a framework in place to give local departments guidance while ensuring appropriate public access to these recordings. After extensive work by an interim study committee, Rep. Mahan and Sen. Bray are carrying HB 1019 to address this issue.

There is no mandate for local departments to begin using body cameras, but HB 1019 does contain a recording retention requirement of 190 days for all law enforcement recordings. The rationale here is that Indiana's Statute of Limitations for tort claims is 180 days; the extra 10 days gives a potential plaintiff some additional time to make the public records request.

Apart from the recording retention requirement, the bill also contains provisions that detail when a person must be allowed to inspect or copy a recording. There is some language in the bill currently that requires a department to release a recording if it pertains to a civil rights violation, a tortious act, or the excessive use of force. Requiring the department to make a determination here is concerning, and IACT is working with the Sheriff's Association, the Chiefs of Police, and other stakeholders to clean this up.

Provided the bill passes the Senate next week, Sen. Bray and Rep. Mahan have committed to working with us during conference committee.

IACT's Position or Proposed Position: Support bill while continuing to work on the finer details.

Funding for the 3rd Regional Cities Project Being Debated

[SB 302](#) State and Local Finance (Kenley, R-Noblesville)

[HB 1161](#) Pension Thirteenth Checks and Other Distributions (Gutwein, R-Francesville)

Last session, the General Assembly authorized a tax amnesty program to fund Governor's Pence Regional Cities Initiative up to \$84 million. The next \$6 million collected through the program was to go to the Hoosier State Rail Line and any remaining dollars to the State General Fund. Therefore, only \$90 million of the proceeds were allocated to specific purposes. However, the program was a \$169 million success. Although the IEDC had originally planned to choose only two regions to receive \$42 million each, they ultimately decided to choose three cities (Evansville, Fort Wayne, South Bend) which could be funded using a total of \$126 million of tax amnesty dollars.

To fund the third region, authorizing legislation is necessary. Speaker Bosma has acknowledged that Regional Cities is a great program, but he has been calling into question the Governor's decision to commit to three regions that they would each receive \$42 million in Regional Cities money before there was legislative authorization (or at least, a commitment from the General Assembly) to do so.

Although SB 302 and HB 1161 both currently contain language to fund the third region, the issue is now caught up in the end-of-session negotiations that occur amongst the House, the Senate, and the Governor. SB 302 was heard in the House Ways and Means Committee on Wednesday and is back on the calendar for an amend and vote on Monday. HB 1161 will be on the Senate second reading calendar for Monday.

IACT is very supportive of the Regional Cities Initiative, and it is our hope that an agreement can be reached without jeopardizing other priorities like road funding.

IACT's Position or Proposed Position: Support funding for 3rd Region.

[Click for More Bills of Interest](#)

Upcoming Indiana House & Senate Deadlines:

- February 29: House Committee Report Deadline

- March 1: Senate 2nd Reading Deadline
- March 2: House 2nd Reading Deadline
- March 2: Senate 3rd Reading Deadline
- March 3: House 3rd Reading Deadline
- March 14: Sine Die

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