



Indiana Association of
Cities and Towns

LEGISLATIVE SUMMARY



MARCH 11, 2016

Sine Die. It's not a spelling error, it's "without assigning a day for a further meeting or hearing." Last night the Indiana General Assembly adjourned Sine Die and left for home. It wasn't until the last hours (and minutes) of session that many municipal bills of interest were resolved. Below is a short recap of the top six bills whose fate was decided yesterday. Of course, we'd be remiss not to give special recognition to the significant road funding bill, HB 1001, the final bill to pass before lawmakers left town. It's expected the Governor will sign the bill and make official this great step forward in the movement to properly fund the maintenance of Indiana's vital infrastructure network.

In the coming weeks IACT will prepare the 2016 IACT Statehouse Report. This comprehensive report will include a synopsis of all new laws with the potential to impact municipal governments. Watch for the May/June edition of Actionlines and the IACT website for more details..

THIS WEEK: THE TOP **6** THINGS YOU NEED TO KNOW

Road Funding

- Legislators worked tirelessly over the last week of session to find a road funding compromise that will provide local governments with immediate revenue distributions in conjunction with additional resources and revenue mechanisms.
- The compromise that was struck will serve as very significant starting point for a longer-term solution, however, SB 67 will provide local governments more than \$400 million by May 2nd, 2016 to start addressing immediate infrastructure needs.
- The final version of HB 1001 provides additional revenue options for locals to start addressing their short term infrastructure needs. In the final days, IACT focused our efforts on removing MVH use restrictions, maximizing local revenue options and insuring long term funding remains part of the dialogue moving forward.
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Omnibus Tax Bill

- SB 308 and HB 1290 passed in the final hours of session. Both bills contain various local tax matter provisions.
- SB 308 contained IACT initiated language regarding levy increases for fast growing communities. Unfortunately, the bill also contained controversial language on changing the way farmland property is assessed, which over time will cause local units to lose millions. IACT will be aggressively working to mitigate the impact of this provision.
- IACT worked extensively to revise language in HB 1290 that would have required the fiscal officer of a unit to keep RDC dollars in a separate checking account. The new language that passed requires RDC dollars to be kept in a separate fund and further transparency measures are required. The bill also contained the market segmentation language to address the problems with assessing big box retail stores.
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Public Safety Body and Dash Cameras



- This week, legislation that establishes a framework to address public records requests for law enforcement recordings passed the General Assembly unanimously. The bill is now awaiting the Governor's signature.
- Key provisions of the bill: 1) Require a department retain all law enforcement recordings for at least 190 days; 2) Provide that a "requestor" (defined in-depth in the bill, but will most commonly be the person depicted in the recording) has the right to see the video at least twice, though the department does not automatically have to allow the requestor to receive a copy; 3) Specify a court procedure that must be followed when a person sues to get a copy of a recording; and 4) Put the burden of proof on the department to justify why a recording should not be released.
- This bill will become effective July 1, 2016, so it will be important for cities and towns with body camera/dash camera programs already in place to begin preparation for implementation of this new framework.
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Annexation

- HB 1298 was an IACT initiative bill to make follow-up technical changes to the annexation statute after last year's comprehensive annexation reform.
- During the Senate Local Committee, two very bad annexation provisions were added. We are happy to report that during the conference committee process, the troubling annexation provisions were removed and they will not become law.
- HB 1298 passed in nearly its original form. It now heads to the Governor for signature. We thank Representative Sharon Negele and Senator Rod Bray for all of their hard work on this bill!
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Anti-Meth Legislation

- The Indiana General Assembly took bold action this week to fight domestic meth production. After a week full of many twists and turns, SB 80 passed the House 72-25 and the Senate 41-7. Another anti-meth bill to block convicted drug felons from buying over-the-counter pseudoephedrine, SB 161, also

passed the House 92-4 and the Senate 50-0.

- SB 80 requires pharmacists to make a professional determination as to whether an individual seeking to buy pseudoephedrine over-the-counter has a legitimate medical need for the product if the pharmacy does not have a relationship with that customer. If at any time a pharmacist suspects a customer will divert the pseudoephedrine to make meth, they can refuse to sell it to the customer and he/she has civil immunity to do so.
- Representative Ben Smaltz and Senator Randy Head faced many challenges as this legislation wound its way through the process. In the end, SB 80 strikes an appropriate balance between consumers who have a legitimate need for pseudoephedrine while blocking the sale to bad actors.
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Regional Cities

- In 2015 the General Assembly authorized a tax amnesty program and provided \$84 million to be directed to fund the state's Regional Cities Initiative. The IEDC had originally planned to select two regions that would receive \$42 million each. However, the IEDC ultimately chose three regions to receive \$42 million each – Evansville, Fort Wayne and South Bend.
- With the addition of a third region the General Assembly had to authorize additional funding for this purpose. The ability to fund a third region was a sticking point but thankfully the tax amnesty program exceeded its anticipated goal.
- Funding for the third region became tied to the road funding discussion as House legislators worked to garner additional support for their road funding proposal. As the session came to a close the original version of the Regional Cities bill authored by Senator Kenley was amended into the final version of HB 1001, road funding.
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Road Funding is the Last Bill to Cross the Finish Line in 2016 Session

[SB 67](#) Local Income Tax Distributions (Hershman, R-Buck Creek)

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

We have to start this update by thanking Senate and House leadership as well as the Governor for recognizing local infrastructure needs as a top priority during the 2016 General Assembly. There were five bills introduced on road funding and after thorough discussion and debate there was a compromise reached that will have a huge short term impact. The General Assembly passed a two part plan to distribute more than \$400 million in 2016 along with additional tools and funding mechanisms to start addressing long term local funding needs.

The first part of the plan is included in SB 67 authored by Senators Hershman and Kenley. SB 67 calls for a distribution of the LOIT Trust Reserve, releasing more than \$400 million to all eligible entities no later than May 2nd. The bill requires 75% of these funds be used for LRS purposes or placed in a municipalities rainy day fund for LRS purposes in future years. The remaining 25% may be used for any legal purpose, however, the prudent option may be to maintain these funds until your LOIT Trust Reserve funds have been reestablished. SB 67 also reduces the LOIT Trust threshold from a current 50% down to 15%. That offers locals with more fiscal control of our revenue and for most entities they will start receiving maximum distributions in 3-4 years when the reserve has reached the new 15% threshold.

HB 1001 is the critical second part of the infrastructure plan which provides new funding mechanisms and tools for locals to help identify long term needs. Before we discuss the premise of the bill, IACT members voiced great concern last week as additional restrictions were placed on permissible MVH uses. Following significant IACT involvement, all of those restrictions were removed from the bill during final negotiations and locals will retain all of the current eligible uses.

Now for the meat and potatoes of HB 1001. The creation of a municipal wheel and excise surtax for cities and towns with a population greater than 10,000 will allow 76 entities to implement a new revenue mechanism. The wheel and excise tax must be implemented together and the municipal wheel tax may be implemented even if your County already collects a wheel and excise tax. If a municipality utilizes an asset management plan and chooses to implement the wheel tax, this will generate \$65 for each registered vehicle within the city or town.

HB 1001 also creates a Local Road and Bridge Matching Account (LRBMA), which creates a new revenue source for municipal infrastructure projects. The

program will require the use of an asset management plan and an application approved by INDOT. Grants will be provided with a 1:1 match which currently has no funding threshold for projects. We strongly encourage communities utilize this program along with their LOIT distribution from SB 67 as a means to double your investment in infrastructure. Another positive note is the requirement for 50% of these grants to be awarded in Counties with a population less than 50,000. Funding for the LRBMA will be made available in 2017 and has additional funding allocated for 2018 and thereafter.

An additional tool for locals is funding for the Local Technical Assistance program (LTAP) to assist communities in preparing an asset management plan and gathering data on local infrastructure needs. These asset management plans will be necessary to receive State and Federal funding on projects in the near future.

The last critical aspect of HB 1001 is the creation of the Funding Indiana's Roads for a Safer Stronger Tomorrow (FIRSST) Task Force. The task force will begin meeting immediately to continue the conversation on viable options for long term funding solutions. The task force of 16 individuals will include one member appointed by the Governor after considering a recommendation from IACT.

IACT's Position or Proposed Position: Support.

Two Omnibus Tax Bills Pass During the Final Hours of the Session

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

[HB 1290 State and Local Finance \(T. Brown, R-Crawfordsville\)](#)

SB 308 was the home for various local tax matters. It earlier contained a measure that prohibited a local unit from capturing TIF on a previously abated property. However, the TIF language was removed. The Conference Committee Report on SB 308 that ultimately passed contained a provision to allow a levy increase for fast growing communities (an IACT initiative). While the provision only applies to one community, the City of Westfield, we are pleased that the bill also requests that this issue be considered during interim study. One of the more controversial and concerning provisions of SB 308 included changes to the way farmland property is assessed. This change will cause cities, towns and other local units to lose millions of dollars by year three due to the tax caps and will hit homeowners drastically with the shift in property tax payments. IACT will be working aggressively with lawmakers this summer and next session to mitigate this significant fiscal loss to locals and tax shift to homeowners. Already, several key House and Senate legislators have noted the need to revisit the matter in coming sessions.

The Conference Committee Report on HB 1290, another tax related bill, included a few provisions that IACT was monitoring. It contained language on "market segmentation" to address the problem with big box retail store property tax assessment. It also contained language which IACT worked extensively on regarding Redevelopment Commission funds. The previous version of this language required the unit's fiscal officer to keep RDC dollars in a separate checking account. Under the revised language that ultimately passed, RDC dollars can be kept in the same account, but must be in a separate fund with additional transparency measures when there is a need to borrow from these funds.

IACT's Position or Proposed Position: Significant concerns regarding assessment language in SB 308. Support HB 1290.

New Framework for Public Access to Law Enforcement Recordings

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

The final product of HB 1019 represents a well-crafted compromise amongst various stakeholders to give cities and towns guidance in dealing with public records requests for law enforcement recordings. The bill passed both the Senate and the House unanimously and is now awaiting the Governor's signature.

One critical piece of HB 1019 is the requirement that municipal departments retain law enforcement recordings for at least 190 days. 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. However, there are important exceptions that require the municipality to retain the recording for longer than 180 days – for example, if the recording is being used in an ongoing court proceeding.

Another very important piece of HB 1019 concerns the burden of proof when a person who is denied a copy of a recording sues. When a person sues to get a copy, the recording must be released unless the department can prove that releasing the recording would: 1) pose a significant risk of harm to the person or the public; 2) interfere with a person's ability to receive a fair trial; 3) affect an ongoing investigation; or 4) not serve the public interest.

As we near the July 1 date of implementation, it will be very important for cities and towns to understand this framework as they continue or consider beginning body/dash camera programs.

IACT's Position or Proposed Position: Support.

Annexation Bill Stays Clean

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

HB 1298 was IACT initiative annexation bill to make follow-up technical changes to the statute after the passage of last year's comprehensive annexation reform legislation, SEA 330-2015. When the bill was heard in the Senate Local Government Committee two very bad amendments were added (one removed the economic development exception and the other made all annexations voluntary). While the bad amendments were removed from HB 1298, we were worried the language would resurface in another bill.

We are happy to report that HB 1298 passed in nearly its original form and now heads to the Governor for signature. The bad annexation amendments did not reappear in another bill.

IACT's Position or Proposed Position: Support.

Progress is Made in Fighting Domestic Meth Production

[SB 80](#) Ephedrine and Pseudoephedrine (Head, R-Logansport)

Currently meth cooks and their smurfs are not required to go through any sort of verification process. It is too easy for them to get their hands on pseudoephedrine. Once implemented, here is how SB 80 will work: If a person does not have a relationship on record with a pharmacy, that person cannot obtain over-the-counter PSE unless a pharmacist has determined that he/she has a legitimate medical or pharmaceutical need. A person with a relationship on record can obtain PSE. However, regardless of whether a person has a relationship with a pharmacy, if at any time a pharmacist suspects the PSE will be diverted for meth-making, the pharmacist may refuse to sell the product without fear of civil liability.

There is no question that Indiana has a serious meth lab problem, and it is everyone's hope this will go a long way toward eliminating these labs from our communities for good. Representative Smaltz and Senator Head deserve much praise for the countless hours they spent to build a workable consensus against some difficult opponents.

IACI's Position or Proposed Position: Support.

Funding for the 3rd Regional Cities Project Secured

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

During the 2015 General Assembly legislators authorized a tax amnesty program to fund Governor Pence's Regional Cities Initiative up to \$84 million. The IEDC had originally planned to fund only two regions at \$42 million each, however, after reviewing proposals they choose to fund three regions (Evansville, Fort Wayne, South Bend). Thankfully the tax amnesty program exceeded expectations and the program collected enough revenue to fund the third region along with the 2016 PERF 13th check and Speaker Bosma's educational scholarship program in HB 1002.

In order to fund a third region, authorizing legislation was necessary. Speaker Bosma acknowledged that Regional Cities is a great program, but he also noted House legislators were wary of funding a third region as the legislature searched for a mechanism to fund state infrastructure.

Funding for the third region was amended into HB 1001 that contained components of the Governors road funding proposal and the House road funding proposal, which likely guaranteed the successful passage of all three bills. HB 1001 was the final bill to pass the 2016 General Assembly and legislators have made a historic investment in statewide infrastructure and regional economic development.

IACI is very supportive of the Regional Cities Initiative, and it is our hope that we continue the discussion of funding additional regions in the years ahead.

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

[Click for More Bills of Interest](#)

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