

# State Legislative Update

## 2024 Session Wrap-Up

### 2024 INDIANA GENERAL ASSEMBLY

#### General Interest

- On Friday evening, March 8, 2024, the Indiana House of Representatives and Senate officially completed the work of the “short” legislative session and adjourned Sine Die.
- Some of the key issue areas that the General Assembly focused on during the 2024 legislative session include:
  - Banning antisemitism in public educational institutions (House Enrolled Act 1002);
  - Increasing third grade reading proficiency (Senate Enrolled Act 1);
  - Expanding childcare access (Senate Enrolled 2);
  - Nursing profession & ambulance payment reform (House Enrolled Acts 1259 and 1385);
  - Employment of minors (Senate Enrolled Act 146 and House Enrolled Act 1093);
  - Expanding work-based education to prepare students for today’s workforce (House Enrolled Act 1001); and
  - Enabling water utility companies to replace lead water service lines efficiently and more cost effectively (Senate Enrolled Act 5).
- This was not a session that was focused heavily on energy and utility issues. However, for IMPA and our municipal electric utilities, we watched all legislation for possible impact on our interests.



#### By the Numbers

- In the Indiana General Assembly this year, 714 bills and 7 joint resolutions were introduced. At the half-way mark, 222 bills and 2 joint resolutions were still alive. Upon final adjournment, 172 pieces of legislation made it across the finish line and were sent to the Governor for signature into law. That is a little less than 25% of the introduced bills.

#### General Legislation of Interest

##### **Senate Enrolled Act 1 – Third grade reading proficiency**

This measure is the Senate priority bill that addresses reading proficiency for third grade

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students. While both chambers of the IN General Assembly acknowledged that increasing reading proficiency for third graders was of the utmost importance, this measure became controversial because it requires retention of third graders who do not meet certain established through a Department of Education evaluation. Specifically, SEA 1 stipulates that schools must first test students in second grade, which is a year earlier than current statute, and then offer targeted support to students who are having difficulty. If a student fails to pass the IREAD test three times, they must be held back with limited exceptions as determined by DOE.

### **Senate Enrolled Act 252 – Qualifications for newspapers to publish legal notices**

This measure changes the requirements for newspapers to qualify for posting public notices to ensure they can meet timeline requirements that work for political subdivisions. SEA 252 says that a newspaper must have been published for 1 year instead of 3 years and that the newspaper must have had an average paid circulation in the preceding year – both online and physical subscriptions – of at least 500 instead of 200 in order to be eligible to publish legal notices. SB 252 requires a paid circulation threshold for a newspaper published in a county of 2% of the county population.

### **House Enrolled Act 1204 – Publication of notices**

This measure allows a political subdivision to publish notice in the print or electronic edition of a newspaper or in a local newspaper that issues a print edition not more than three times a week. If a newspaper or local newspaper issues a print edition not more than two times a week, HEA 1204 allows a political subdivision to publish notice in the print edition or on the newspaper or locality newspaper's website. If the newspaper or locality newspaper does not have a website, the notice can be published in the print edition or on the political subdivision's official website. With regard to notice requirements for the sale of certain tracts of real property, HEA 1204 allows that notice to be published solely on the official website of the political subdivision. It provides that if the assessed value of a tract is less than \$10,000, based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, no appraisal is required.

### **Senate Enrolled Act 150 – AI and Cybersecurity**

This measure creates the Artificial Intelligence Task Force to study and assess the use of artificial intelligence technology by state agencies. It provides that political subdivisions, state agencies, school corporations, and state educational institutions may adopt a technology resources policy and a cybersecurity policy subject to specified guidelines. SEA 150 specifies requirements for public entities and entities other than public entities that connect to the state technology infrastructure of Indiana. Provides, with regard to a licensing contract entered into by a state agency for use of a software application designed to run on generally available desktop or server hardware, that the contract may

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not restrict the hardware on which the state agency installs or runs the software. SEA 150 provides that if a state agency enters into a contract with a person under which the state agency runs software on hardware owned or operated by the person, the office of technology shall ensure that the state agency fully complies with the licensing terms of all software run on the person's hardware. It provides that an executive or legislative state agency may submit to the Office of Technology and the Task Force an inventory of all AI technologies in use or being developed or considered by the state agency for use, by the state agency. Finally, SEA 150 provides that, subject to specified exceptions, the title to any record of state government is held by the state and the title to any record of a local government is held by that local government.

### **House Enrolled Act 1133 – Use of digitally altered media in elections**

House Enrolled Act 1133 requires that any political ads made without a candidate or officeholder's consent that contain digitally altered or AI-generated images, must include a disclaimer about its use. The measure also allows candidates and officeholders to sue the people who paid for or sponsored the ad if it does not include that disclaimer.

### **Senate Enrolled Act 234 – Emergency declarations by the Governor**

This legislation limits the emergency powers of the Governor. An Indiana Governor may only declare an emergency for 60 days before the IN General Assembly must intervene. With the legislature's approval, the Governor could file a 60-day extension of that emergency declaration. This language only applies to statewide emergencies, not local emergencies, as we saw during the COVID 19 pandemic. Previously, the Governor could authorize an emergency declaration for 30 day increments, with unlimited renewals that did not require the General Assembly's approval.

### **House Enrolled Act 1183 – Foreign ownership of land in Indiana**

This measure bars entities affiliated with China, Cuba, Iran, North Korea, Russia, and Venezuela from acquiring or renting agricultural land — and mineral, riparian and water rights. Those nations are on a list kept by the U.S. Department of Commerce. HEA 1183 also prohibits purchases and leases of land in a 10-mile radius of a military installation. That provision applies to entities from China, Iran, North Korea, Russia, and any other countries designated "threats to critical infrastructure." There are exceptions for dual citizens and lawful permanent residents. It also lets citizens of the "adversary" countries rent residential properties, meant to accommodate university students, professors, and others.

### **House Enrolled Act 1338 – Securing property and meeting decorum**

This legislation allows the governing bodies of certain local government agencies to adopt rules or policies governing the conduct of meetings. It provides that a rule or policy may

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provide that the presiding member of the governing body of the local agency may issue warnings to disruptive attendees and direct them to leave the meeting on the third warning. It also directs a law enforcement officer to remove disruptive meeting attendees. The meeting rules and policies must be posted at the meeting entrance or announced before taking public testimony. It specifies that a provision of the tort claims law provides immunity to a government entity or employee in adopting and enforcing a law or rule applies. HEA 1338 also provides that a person commits criminal trespass by knowingly or intentionally entering a locked area without permission or refusing to leave an area not publicly accessible after being asked to leave by a law enforcement officer or agent of the property owner or operator.

- The most controversial provision of HEA 1338 pertains to the IN Public Access Counselor. It specifies that the Indiana Public Access Counselor will now serve at the pleasure of the Governor and when issuing an advisory opinion, the Public Access Counselor may consider only the plain text of the public access laws and “valid” Indiana court opinions.
- The bill also provides that a committee appointed directly by the governing body or a governing body’s designee does not constitute a governing body that is subject to the Open Door Law if the committee is appointed for the sole purpose of receiving information, deliberating, or making recommendations to the governing body and has not more than one member of the governing body as a member.

### **House Enrolled Act 1084 – Privacy of firearms financial transactions**

This measure contains several firearms related provisions. Notably, language that was contained in SB 14 was added into HEA 1084 during the conference committee process. That language primarily expands who is allowed to carry a firearm on the state government campus, including the State House. In addition to members of the General Assembly and their professional staff, this bill now allows the Attorney General, Secretary of State, Comptroller, and Treasurer, and their staff to carry guns in the Statehouse.

### **Specific Energy/Utilities Legislation**

#### **House Enrolled Act 1277 – State administration of federal BEAD program**

HEA 1277 addresses the conflict between federal and state law concerning access to the Broadband Equity, Access, and Deployment (BEAD) Program, which is a federal government fund for rural broadband expansion. As introduced, this bill specified that the existing Indiana statute concerning the awarding of grants by the Office of Community and Rural Affairs (OCRA) for certain eligible broadband projects does not apply to subgrants awarded by the Indiana Broadband Office under the federal BEAD law, except for the definition of “eligible broadband service provider” set forth in the existing statute.

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The General Assembly has been clear that municipalities and other non-profit entities are not eligible broadband service providers. However, the federal BEAD law stipulates that these entities cannot be excluded from contracting and installing but must meet the threshold of years of experience set forth in the BEAD law in order to be eligible. HEA 1277 contains language that narrowly allows certain municipalities and non-profits to be eligible contractors/installers for purposes of these funds as long as they meet the BEAD requirements for years of experience. Few long standing municipal broadband networks exist, but this legislation could be of benefit to them.

### **House Enrolled Act 1278 – IURC and energy development matters**

This measure impacts the IN Office of Energy Development (OED) and the IURC. It is primarily clean-up legislation that eliminates several statutory funds and programs administered by OED that are no longer funded or utilized. The most significant portion of HEA 1278 concerns the Commercial Solar and Wind Energy Ready Communities Development Center that was created by the legislature in 2023. Under that law, the center administers a certification program for counties and municipalities that want to meet state defined guidelines for renewable energy projects and become commercial solar or wind ready communities. HEA 1278 would allow OED to certify municipalities or counties as solar or wind ready as long as their ordinances – even if they are more restrictive -- do not differ significantly from industry or regulatory standards or pose an otherwise large barrier to renewable development. The IURC provisions in HEA 1278 pertain to the field hearing process in rate cases that seek revenue increases of more than \$2.5 million.

### **Senate Enrolled Act 247 – Water and wastewater utility infrastructure**

This measure streamlines the regulatory process for the acquisition of small, often distressed water utilities (valued under \$3 million). Additionally, SEA 247 was amended in the Senate to add language that includes municipal natural gas utilities for the purposes of following the statutory public process for the sale of non-surplus utility property.

### **Senate Enrolled Act 5 – Lead water line replacement and lead remediation**

SEA 5 was a priority Senate measure that expedites the replacement of customer-owned lead water service lines by water utilities, including investor-owned utilities, municipally owned utilities and a utility company owned, operated, or held in trust by a consolidated city (Citizens Energy). SEA 5 is an effort to enable Indiana's water utilities that have IURC-approved lead pipe replacement plans in place to move ahead more quickly and cost effectively, especially when dealing with recalcitrant property owners. SEA 5 addresses this and allows utility companies, upon notice to schedule the service line replacement, to access a property if the owner does not enroll in the program or replace the service lines

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at their own expense within 45 days. Renters are given the right to grant water utilities access to the property.

### **House Enrolled Act 1122 – Underground facility protection**

This measure addresses the recent Indiana Underground Plant Protection Service rulemaking that was adopted by the IN Utility Regulatory Commission on January 5, 2024, and is an effort to eliminate any conflicts between the rule and state statute. HEA 1122 is a result of numerous stakeholder conversations over the last few years. Specifically, it defines the time of receipt of a notice as the time observed in Indianapolis (prevailing time), defines when excavation or demolition work can begin after the receipt of a locate request, and makes other changes to the notification process.

### **House Enrolled Act 1163 – Certificates of public convenience and necessity (CPCN)**

This measure allows the REMCs to construct small scale generation of less than 10 MWs without going to the IURC for a Certificate of Public Convenience and Necessity (CPCN). HEA 1163 gives the rural cooperatives the same exemption that IMPA and municipal utilities already have.

### **House Enrolled Act 1206 – Voting by small water and wastewater utilities**

HEA 1206 concerns small water and wastewater utilities in Indiana and how they withdraw from or re-enter IURC jurisdiction. Specifically, HEA 1206 makes changes to the manner in which these small utilities vote to withdraw from and/or return to the jurisdiction of the IURC. It extends the number of days for a notice of a meeting to vote on such a move to 45 days (current law is 30 days) and it allows members or shareholders to vote by absentee ballot. HEA 1206 also allows those absentee votes to count toward the 5% threshold required for a quorum.

### **House Enrolled Act 1306 – Live streaming and archiving of IURC hearings**

This measure deals with the live streaming of IN Utility Regulatory Commission (IURC) proceedings. The legislation exempts the very quick, “stop and go” procedural hearings at the IURC from the live streaming requirements for state and local entities that were approved in 2023. HEA 1306 places additional guardrails on the IURC to ensure continued transparency to the public in those circumstances. The IURC is required to live stream any IURC proceeding that it reasonably determines will include a cross-examination of witnesses or is a matter of public interest. The IURC is required to issue a General Administrative Order (GAO) to implement a policy that governs the live transmission of IURC proceedings and must include used to determine “public interest.”