

State Legislative Update

February 16, 2024

2024 INDIANA GENERAL ASSEMBLY WEEK 6

General Information

- The first week of the second half of the 2024 “short” legislative session is complete. Committee activity began immediately upon legislators’ return to the State House on Monday. Note that the committee deadline for the second half is now just 1 ½ weeks away, followed by the conference committee process and then final adjournment of the General Assembly.
- While just a rumor at this point, we are starting to hear that March 8th could be adjournment Sine Die. If an earlier than the statutory March 14th adjournment date comes to fruition, expect things to continue to move quite quickly.
- Last Friday marked the end of the filing season for the May Primary election. The ballots for several key races are crowded. For the full list of who is running for what, please go to https://www.in.gov/sos/elections/files/rpt_CandidateListPrimary_Short2.13.pdf
- Governor Holcomb signed the first bill of the session this week. House Enrolled Act 1383 pertains to wetlands and wetland protections in Indiana. HEA 1383 passed through the legislative process in an expedited manner, stirring controversy along the way. The measure lowers the number of wetlands that could fall into Class 3, which is the most protected group of Indiana’s wetlands. Class 3 was the only class that did not lose significant protection in 2021 when the General Assembly last changed the law regarding wetlands. Proponents of the legislation argue that it strikes the right balance of protections and development, while opponents suggest that it will further erode the number of wetlands throughout the state.
- Artificial intelligence and cybersecurity have become important topics for the legislature this year. Of note, Senate Bill 150 is moving through the process. Specifically, SB 150 creates the Artificial Intelligence Task Force to study and assess the use of artificial intelligence technology by state agencies. Additionally, it encourages political subdivisions, state agencies, school corporations, and state educational institutions to adopt technology resource policies and cybersecurity policies pursuant to specific guidelines.
- Another interesting piece of legislation deals with the use of digitally altered media in election campaigning. Artificial Intelligence (AI) in other words. Specifically, House Bill 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. HB 1133 passed unanimously in the House and has already been heard by the Senate Elections Committee. The bill was held over for a vote, potentially next week.

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- Of interest to local cities and towns, Senate Bill 159 (annexation) passed out of the Senate and is scheduled to be heard in the House Local Government Committee next week. SB 159 is Senator Jim Buck's perennial effort to further erode annexation policy in Indiana. Iterations of this legislation have failed to move beyond Senate passage for the last several years. SB 159 is largely the same and requires a municipality that initiates an annexation to file with the court an annexation petition approved by the signatures of at least 51% of the owners of non-tax exempt land in the annexation territory or the owners of at least 75% in assessed valuation of non-tax exempt land in the annexation territory. It requires the court to hold a hearing if the petition has enough signatures and adds provisions for determining the validity of those signatures. Additionally, the bill eliminates remonstrances and remonstrance waivers, the reimbursement of remonstrator's attorney's fees and costs, and the eliminates the adoption of a fiscal plan for voluntary annexations requested by 100% of landowners in the annexation territory. While slated for a hearing next week, it is anticipated that no vote will be taken.

Specific Energy/Utility Legislation

- On the energy and utilities front, both the House and Senate jurisdictional utilities committees met this week to kick off the second half of the session.
 - The House Energy, Utilities and Telecommunications Committee met for its only meeting of the second half of the session. On tap were Senate Bills 5 and 247.
 - Senate Bill 5 is a priority Senate bill that would expedite 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). SB 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. SB 5 addresses this and would allow 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 at their own expense within 45 days. Renters are given the right to grant water utilities access to the property. The committee approved the bill unanimously and it now moves to the full House.
 - Senate Bill 247 streamlines the regulatory process for the acquisition of small, often distressed water utilities (valued under \$3 million). Additionally, the bill was amended in the Senate to add language that includes municipal natural gas utilities for the purposes of following the

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statutory public process for the sale of non-surplus utility property. The bill was approved by the committee and now moves to the full House for consideration.

- The Senate Utilities Committee also met this week and heard four of the six bills sent over to it from the House of Representatives – House Bills 1122, 1163, 1206, and 1306.
 - House Bill 1122 – This bill seeks to ensure that the recent Indiana Underground Plant Protection Service rulemaking that was adopted by the IN Utility Regulatory Commission on January 5, 2024 is not in conflict with state statute. HB 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. It was approved by the committee unanimously and now moves to the full Senate.
 - House Bill 1163 – This bill would allow 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). This legislation would provide the rural cooperatives with the same exemption that IMPA and municipal utilities already have. The committee approved the measure unanimously.
 - House Bill 1206 – This measure concerns small water and wastewater utilities in Indiana and how they withdraw from or re-enter IURC jurisdiction. Specifically, HB 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. HB 1206 also allows those absentee votes to count toward the 5% threshold required for a quorum. The bill passed out of committee unanimously and will now be considered by the full Senate.
 - House Bill 1306 – This measure deals with the live streaming of IN Utility Regulatory Commission (IURC) proceedings. The bill 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. Language was added that places additional guardrails on the IURC to ensure continued transparency to the public in those circumstances.

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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 criteria used to determine “public interest.” HB1306 was passed by the committee unanimously, and now moves to the full Senate for consideration.

- Please see this week’s updated tracking list for additional information on these and other pieces of legislation that are potentially continuing their journey through the legislative process.

