

# State Legislative Update

January 19, 2024

## 2024 INDIANA GENERAL ASSEMBLY WEEK 2

### General Information

- As Week 2 of the 2024 legislative session comes to completion, the only way to describe it so far is fast and furious. Committees are meeting, bills are moving on to the floor in both chambers, and deadlines are quickly approaching. In just a little over two weeks, the first half of the session will be completed.
- Of note this week, no one in the Indiana state legislature nor the Hoosier Congressional delegation announced that they are not seeking reelection in 2024!
- Across the nation, 37 state legislatures are actively meeting.
- For the 2024 legislative session, a total of 714 bills (418 House, 296 Senate) and 7 Joint Resolutions (3 House, 4 Senate) have been introduced for consideration. Both the House and Senate have bill limitations of 5 bills/legislator.

### Specific Legislation of Interest This Week

- Annexation -- Senate Bill 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 155 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. Due to the length of consideration of other bills on the Senate Local Government Committee agenda, SB 159 was not heard this week.
- Eminent domain -- Senate Bill 155 would expand the circumstances under which a property owner can claim compensation for losses due to an eminent domain condemnation. SB 155 introduces the concept of "going concern", which is defined as "benefits that accrue to a business or trade as a result of the business or trade's location, geographic features, reputation for dependability skill or quality, customer base, good will or any other circumstances resulting in the probable retention of old or acquisition of new patronage." This would apply in any matter involving eminent domain. For a municipality, this is typically a tool of last resort to acquire property for a public benefit, including acquiring a utility easement. If a property owner refuses to accept a proposed agreement for compensation in any taking of property, and eminent domain proceedings commence, SB 155 would put in place a new compensation category that could increase costs associated with essential services projects. After over two hours of debate, the measure

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January 19, 2024

was approved by the Senate Local Government Committee 8-2, but by rule, recommitted to the Senate Tax and Fiscal Committee due to its potential fiscal impact.

- Public Meeting Disruptions and Decorum -- The House Government and Regulatory Reform Committee approved House Bill 1338 this week. HB 1338 addresses purposeful disruptions and breeches of decorum caused by people who attend local public meetings. Specifically, the bill allows the governing bodies of certain local government entities (i.e. city/town councils, county councils) to adopt rules or policies governing public conduct at those meetings. It provides that a rule or policy may provide that the presiding member of the governing body may issue warnings to disruptive attendees and direct them to leave the meeting on the third warning and direct a law enforcement officer to physically remove disruptive attendees. The bill provides that the rules and policies must be posted at the meeting entrance or announced before taking public testimony. The bill provides that a person who knowingly or intentionally enters or refuses to leave certain restricted areas of a property commits criminal trespass. It specifies that a provision of the tort claims law that provides immunity to a government entity or employee who enforces this would apply. The full House will now consider HB 1338.
- Firearms - Senate Bill 14 advanced this week after being heard by the Senate Corrections and Criminal Law Committee. This bill expands the list of who can carry firearms in the State House and the State Government Center campus generally. Indiana's Attorney General, Secretary of State, State Comptroller and State Treasurer would now have the right to carry a gun within the state capitol complex. This would include each office's respective staff. Legislators and legislative staff are already allowed to carry inside the State House. The bill moves to the full Senate for consideration.
- On the energy and utility front, the House Energy, Utilities and Telecommunications Committee met this week and heard House Bills 1163, 1206, 1277 and 1278.
  - House Bill 1163 – This measure would allow the REMCs to construct 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 conduct votes to both withdraw from and 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 allows members or shareholders to vote on the withdrawal or return by absentee vote. HB 1206 also allows those absentee votes

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to count toward the 5% threshold for a quorum. The bill passed out of committee unanimously and will now be considered by the full House of Representatives.

- House Bill 1277 – The bill 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. 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. HB 1277 was amended in committee to narrowly allow 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. The bill was approved and now moves to the full House for consideration.
- House Bill 1278 – This measure impacts the IN Office of Energy Development (OED) and the IURC. It is primarily a clean-up bill and eliminates several statutory funds and programs administered by OED that are no longer funded or utilized. The most significant portion of HB 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. HB 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. IURC provisions in the bill pertain to the field hearing process in rate cases that seek revenue increases of more than \$2.5 million. The bill passed unanimously out of committee and on to the full House.

- The Senate Utilities Committee did not meet this week.

