

# State & Federal Legislative Update

January 26, 2024

## INDIANA GENERAL ASSEMBLY

### General Information

- The 2024 legislative session began January 8th, and it has been fast and furious thus far. There are now approximately 6 ½ weeks left of the 2024 “short” session.
- In total, 714 bills and 7 joint resolutions were introduced this year. Both the IN House and Senate imposed a 5 bill limit per legislator.
- The House committee deadline is Tuesday January 30th, and the Senate committee deadline is February 1st.
- From the outset, leaders have said the session would be quick, with far fewer priority policy items for consideration. This is a huge election year which is the primary driver for fewer heavy policy lifts.
- Legislative priorities include addressing 3rd grade reading proficiency, chronic absenteeism in grades K-12, childcare access and affordability, 13th check for public employees’ retirement, and antisemitism protections in schools.

### Issues of Relevance/Importance to IMPA/Utilities Generally

- This is not a heavy energy/utility session. However, there are several bills of interest that we are keeping an eye on.
- The House Energy, Utilities, and Telecommunications Committee kicked off the session with an informational meeting with presentations from electric utilities on “off nominal events” like weather and other unplanned interruptions in service. As was the case with the IN Utility Regulatory Commission’s fall hearing on storm response, restoration and preparedness, this meeting focused primarily on the IOU utilities.
- Other bills of interest include:
  - 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, as has the full House.
  - 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.

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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 to count toward the 5% threshold for a quorum. The bill passed out of committee unanimously and was approved by the full House 94-1.

- 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 unanimously by both the committee and the full House.
- 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 the full House, 88-6.
- House Bill 1306 – This measure deals with the live streaming of IN Utility Regulatory Commission (IURC) proceedings. As introduced, the bill exempts the IURC from the live streaming requirements for state and local entities that were approved in 2023.

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Language was added that places additional requirements on the IURC to ensure continued transparency to the public. Those requirements include requiring the IURC to live stream any IURC proceeding that the IURC reasonably determines will include a cross-examination of witnesses or is a matter of public interest. The measure requires the IURC to issue a General Administrative Order (GAO) to implement a policy that governs the live transmission of IURC proceedings and must include criteria the IURC uses to determine “public interest” and why a live transmission would be appropriate, processes for members of the public to request that a proceeding be live streamed, and for archiving the live stream. The bill was approved by committee 9-1.

- 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, the measure 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 11-0.
- Senate Bill 247 – This measure was heard in the Senate Utilities Committee. It amends the sale petition filing requirements at the IURC for the sale of distressed water and wastewater utilities. Of note to municipal utilities, an amendment was added that includes municipal natural gas utilities for purposes of following the statutory public process for the sale of non-surplus utility property. Other municipal utility types were already included in statute.

## **Miscellaneous Legislative & Election Information of Interest**

- The 2024 election season officially began on January 10th when candidates for a number of offices could officially file their declaration of candidacy in the Secretary of State’s office for the primary election. This includes candidates for federal office, as well as statewide, legislative, and judicial offices. Declarations of candidacy can be filed through noon on February 9th.
- Nine current state legislators have announced they are not running for reelection in 2024 – 8 state Representatives and 1 state Senator.
- With the retirement announcements by US Congressmen Greg Pence (6th CD) and Dr. Larry Bucshon (8th CD), there will be 4 open Congressional seats in Indiana this year. Congressman Jim Banks (3rd CD) is running for the US Senate seat currently held by Senator Mike Braun who is running for IN Governor. Congresswoman Victoria Spartz (5th CD) announced last year that she is not seeking re-election.

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## FEDERAL LEGISLATIVE UPDATE

### Continuing Resolution Passes

- With a snowstorm set to create havoc in Washington DC last Thursday, Congress had a sense of urgency to get productive so they could get out of town! Another Continuing Resolution (CR) was adopted by Congress that will keep the federal government open and operating – for now.
- The CR moves deadlines down the road for the third time since October. This CR extends funding for agencies covered by four appropriations bills that were set to lapse on January 19th to March 1st. Funding covered under the remaining eight bills that were set to expire Feb. 2nd is extended to March 8th.
- Of interest, the final vote on the CR was 314-108, with 207 Democrats and 107 Republicans voting yes, while 106 Republicans and 2 Democrats voted no. US House Speaker Johnson lost almost his entire razor-thin Republican majority on the CR, as it was basically the same type of agreement that former Speaker McCarthy made and that ultimately lost him his speakership.

### Limited Congressional Activity in the Electric/Energy Space

- Carbon Border Adjustment Legislation
  - In a bipartisan vote, the Senate Environment & Public Works Committee approved S. 1863, the Providing Reliability, Objective, Verifiable Emissions Intensity and Transparency (PROVE IT) Act.
  - Requires the Department of Energy to conduct a comprehensive study comparing the emissions intensity of certain goods - including aluminum, iron, steel, biofuels, glass, hydrogen, solar cells and panels, uranium, and wind turbines -- produced in the United States to the emissions of those same goods produced in the other countries.
- Distribution Transformer Efficiency and Supply
  - The Distribution Transformer Efficiency and Supply Chain Reliability Act of 2024 was introduced by US Senators Sherrod Brown (D-OH) and Ted Cruz (R-TX). No bill number has been assigned yet. Of note, Indiana's senior Senator Todd Young has signed on as a co-sponsor of this legislation. Proposed Department of Energy (DOE) distribution transformer efficiency rules and transformer availability were topics discussed with Senator Young at last year's APPA Legislative Rally.



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- This legislation amends the Energy Policy and Conservation Act (EPCA) is an effort slow DOE's roll with regard to finalizing any new energy efficiency standards for distribution transformers and requires that any changes do not take place for 10 years after the rule is finalized.
- H.R. 4167, the Protecting America's Distribution Transformer Supply Act, is the House effort to address distribution transformer concerns. This bill would prohibit DOE from increasing distribution transformer conservation standards for five years.
- As reference, these efforts are a legislative response to the January 2023 Notice of Proposed Rulemaking (NOPR) by DOE announcing potential new energy efficiency standards for distribution transformers. Those proposed new standards would require distribution transformers to feature amorphous steel cores shifting away from traditional, grain-oriented electrical steel (GOES). Despite the electric sector expressing strong concerns to DOE about the severity and impact of the supply chain challenges impacting distribution transformer production and availability, DOE has not backed away from those efforts. IMPA continues to communicate with the IN Congressional delegation on this issue and has joined the chorus of stakeholders who believe that if finalized, the rule would likely enhance the transformer shortage, present a major threat to grid reliability, and cripple the domestic production of GOES steel.

