

2021 INDIANA GENERAL ASSEMBLY WEEK 6

- The conclusion of week six of the 2021 legislative session marked the last full week of committee hearings in the House of Representatives, with the deadline for action coming on Tuesday February 16th. The Senate has one more week before their committee deadline of February 18th. If the schedules in their respective chambers hold, both the House and the Senate will complete the work of the first half of the 2021 session by the end of February.
- There was no shortage of activity this week. Of primary importance, the two-year, \$35 billion biennial state budget, House Bill 1001, was unveiled in the House Ways and Means Committee. The proposed House budget contains numerous provisions, notably additional funding for K-12 schools and a .50 cent increase in the cigarette tax.
- Senate Bill 1 provides liability protections for Indiana businesses, health care providers, nursing homes, schools, manufacturers, government entities, and most other institutions from COVID-19 related civil liability lawsuits. SB 1 was approved 72-21 on Thursday by the House of Representatives, and now returns to the Senate, which previously endorsed the measure 40-8. There was one minor change to the bill in the House so the Senate must concur with that change before it goes to the Governor for his signature into law. This action is expected next week. The legislation provides civil tort immunity against legal claims alleging an entity was responsible for a person being exposed to or contracting COVID-19, as well as immunity for services or treatments provided in response to COVID-19. Additionally, manufacturers of personal protective equipment (PPE), COVID-19 medication, COVID-19 tests, and cleaning supplies would not be responsible for any harm caused by the product's design, manufacture, labeling, sale, distribution, or donation. The protections do not apply in cases where an act or omission constitutes gross negligence or willful or wanton misconduct, including fraud, as proven by clear and convincing evidence, according to the proposal.
- By a vote of 69-27, the House of Representatives voted to approve House Bill 1123 and keep it moving through the legislative process. HB 1123 provides that a special session of the General Assembly may convene at any time during the 30 days after the Governor issues a proclamation that calls for a special legislative session. It also provides that a special session may meet for 40 calendar days or less. Under current law, a special session can last no more than 40 calendar days or 30 "session days", which is a concept no longer used by the General Assembly. The bill creates a new "emergency session" that says if the Legislative Council adopts a resolution finding that the Governor has declared a state of emergency that affects all of Indiana and it is necessary for the General Assembly to address that emergency with legislative action, the emergency session can be called. The bill provides that an emergency session may not last more than 40 calendar days, must adjourn sine die not later than 10 days after the state of emergency ends, and can only consider emergency-related legislation. The bill also prohibits restrictions on religious worship and prohibits local health orders that are more restrictive than a state emergency order unless county commissioners approve such action. City Councils in Indianapolis, Fishers, Gary, and East Chicago could approve more strict orders. The bill now heads to the Senate for further consideration.
- The House of Representatives voted 91-3 to advance House Bill 1030, which establishes a process for removing an elected county official who fails to be physically present in the county official's office for at least one day each month, unless the county official takes lawful leave. The bill provides that the county executive would initiate a county official's removal by adopting a resolution. The removal is effective upon the county fiscal body adopting an identical resolution by an affirmative vote of at least: (1) 17 members, in the case of the 25-member Marion County fiscal body; (2) seven members, in the case of the nine member St. Joseph County fiscal body; or (3) five members, in the case of the seven member county fiscal body of any other county. A county officer who has been removed from office may petition a court for judicial review.
- House Bill 1077 is the "lemonade stand bill." It provides that a local health department, a county, a municipality, or a township may not regulate through ordinance or resolution the sale of lemonade or other non-alcoholic beverages from a stand on private property or in a public park by someone less than 18 years old. It also provides that a homeowner association also cannot regulate this practice. The bill was approved unanimously.
- On the energy/utility/telecommunications fronts, numerous bills are moving through both the House and Senate.
 - House Bill 1220 is one of the policy recommendations from the 21st Century Energy Policy Development Task Force. It provides for a 1-year extension of the 21st Century Energy Policy Development Task Force. The measure makes changes to the current composition of the Task Force. While maintaining the 15-person membership, the bill moves some of the appointments from the Governor to the General Assembly, and those appointments must be people from the State of Indiana. HB 1220 sets out the topics to be considered for study, including but not limited to stranded utility assets, rate fairness to all customer classes, impacts of plant closures on local communities, electric vehicle charging infrastructure, distributed energy resources (DERs), energy storage, the use of securitization to recover stranded utility costs associated with legacy generation units and a potential reporting requirement for cooperatively owned power suppliers (Hoosier/WVPA) to provide to the IURC their calculations of stranded costs. HB 1220 was approved by the full House. 66-28.

- **House Bill 1348** was approved by the House Ways and Means Committee this week. This bill creates a uniform property tax assessment structure for solar projects throughout Indiana. This is an area that was discussed at length during the two-year 21st Century Energy Policy Development Task Force. As amended in committee, the bill sets up an assessment structure that would divide the state into three regions and the median assessment in each region would be used to determine valuation. The tax rate would be capped at the 3% business property tax level. The full House will take this bill up next week.
- **House Bill 1381** reflects one of the recommendations that emerged from the two-year 21st Century Energy Policy Development Task Force. HB 1381 seeks to establish statewide siting and zoning standards for commercial wind and solar developments. The legislation specifically defines a commercial solar energy system as a system that has nameplate capacity of at least 10 MWs. The bill establishes default standards for both wind and solar developments, including setback requirements, height restrictions, various shadow flicker and sound limitations, as well as aesthetic requirements and decommissioning procedures. HB 1381 was approved by the House Utilities, Energy and Telecommunications Committee and is ready for full House consideration.
- **House Bill 1520** is a product of the 21st Century Energy Policy Development Task Force. Over the last two years, resource adequacy was a large focus for the Task Force. Making sure that all Indiana customers have reliable power supply led the Task Force to recommend that the General Assembly establish resource reliability metrics for Indiana's electric utilities, including IMPA. HB 1520 is the product of a collaborative effort by all electric utilities who submit Integrated Resource Plans (IRPs) to the Indiana Utility Regulatory Commission (IURC). The bill requires utilities to submit an annual resource planning and capacity report to the IURC with specific information regarding the utility's ability to provide reliable electric service to its customers. The IURC must then review the reports and determine that the utility's capacity resources will or will not be adequate. The bill was approved by the full House by a vote of 92-0.
- Legislation to expand Indiana's broadband infrastructure is being considered this session. The House Utilities, Energy and Telecommunications Committee is expected to take up a significant bill next week, while Thursday this week was "broadband day" in the Senate Utilities Committee. Senate Bills 352, 359, and 377 were heard and approved by the committee unanimously. All pertain to the buildout of broadband infrastructure throughout Indiana. Each bill takes a slightly different approach, but all seek to promote opportunities for public/private partnerships, add guardrails while maintaining flexibility, raise speed thresholds and promote sharing of information about exactly where service is and where it is lacking.
- Several Local Government bills of interest are progressing this session notably legislation that will allow local units of government and other public agencies to conduct public meetings electronically, with certain parameters. Two bills are moving through the process that seek to allow this.
 - **Senate Bill 369** addresses the ability of local units of government to conduct electronic meetings. Throughout the pandemic, the Governor's Executive Orders declaring a public health emergency have allowed local units and other political subdivisions to hold meetings and conduct official business electronically. SB 369 will allow that practice to continue with certain parameters both in an emergency and under other more normal circumstances. This is an agenda item for the Governor this session and there is very broad support among stakeholders. Specific to IMPA, the IMPA Board of Commissioners has been meeting virtually since last April due to the pandemic and with the authority of the Governor's Executive Orders. We have successfully worked with bill author Senator Linda Rogers on incorporating language specific to IMPA's statute that will officially allow the Board of Commissioners to meet virtually in the future should there ever be another declared emergency by a Governor. SB 369 has been approved by the Senate Local Government Committee and will be considered by the full Senate next week.
 - **House Bill 1437**, authored by Representative Tony Cook, was heard in the House Government and Regulatory Reform Committee. HB 1437 contains similar language concerning local government's ability to conduct meetings electronically in certain circumstances and with reasonable transparency guardrails. We also worked with Representative Cook on incorporating language specific to IMPA and that language is in the bill. Importantly, most transparency and public access advocates support both HB 1437 and SB 369. The Committee approved HB 1437 and it is heading to the full House for consideration.
- This week's Tracking List has been updated and continues to contain a broad list of general interest bills and those that have any kind of an impact on IMPA and municipal electric utilities in Indiana.