

2021 INDIANA GENERAL ASSEMBLY WEEK 7

- The conclusion of week seven of the 2021 legislative session marked the last week of committee hearings in both chambers, as well as the second reading deadline for the House of Representatives. Next week both chambers should complete their work for the first half of the session, with surviving legislation moving to the other chamber for consideration.
- This week also saw Secretary of State Connie Lawson announce her resignation, effective on a date yet to be determined and whenever the Governor announces her successor. Secretary Lawson's term does not end until 2022. Citing the toll that 2020 has taken, she indicated that she is leaving office early to spend more time focusing on her health and her family. Secretary Lawson has spent 32 years in public service and is the longest-serving Secretary of State in Indiana history. She was appointed to the office in March 2012 by then-Gov. Mitch Daniels and was elected in 2014 and 2018. Prior to that, she spent 16 years in the Indiana Senate, and was the first woman to serve as the Majority Floor Leader in that chamber. Prior to serving in the IN General Assembly, she worked in county government.
- The two-year, \$35 billion biennial state budget, House Bill 1001, was considered by the House of Representatives on 2nd Reading this week, which is the amendment phase of the legislative process.
- Last week, the Senate voted 30-17 to override the Governor's veto of Senate Enrolled Act 148 from the 2020 legislative session. This bill dealt with landlord-tenant regulations. SEA 148 contained various non-controversial provisions regarding manufactured housing, but the overall legislation pre-empted the ability of local units of government to regulate certain aspects of the landlord-tenant relationship unless the regulation had already been approved by the General Assembly. In vetoing the bill last March, the Governor cited the overly broad language that would basically take away local control over any aspect of the landlord-tenant relationship. This week, the House of Representatives also voted 67-32 to override the Governor's veto. Importantly, both the House and the Senate this year are moving bills that will eliminate the controversial language that takes away local control over any aspect of the landlord-tenant relationship. Senate Bill 150, approved by the Senate this week, will now be considered in the House.
- Senate Bill 1, the COVID-19 liability protection bill, is the first piece of legislation of the 2021 legislative session to be signed into law by Governor Holcomb. The measure 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.
- The Governor's authority to declare disaster emergencies would be severely restricted under Senate Bill 407, which was unanimously approved by the Senate Rules and Legislative Procedure Committee this week. SB 407 is now one of two measures moving in the General Assembly this legislative session in reaction to the Executive Orders issued by Governor Holcomb during the COVID-19 pandemic. This bill would only allow the Governor to declare a widespread emergency, affecting at least 10 counties, for 45 days without the General Assembly being called into session. House Bill 1123 has already been approved by the House of Representatives and will be taken up by the Senate in the coming weeks.
- Senate Bill 353 concerns elections in Indiana. The measure prohibits the Indiana Election Commission from instituting, increasing, or expanding vote by mail or absentee vote by mail and changing the time, place, or manner of holding an election. Amid the outbreak of the COVID-19 pandemic in March 2020, Governor Holcomb issued an executive order changing the date of the 2020 Primary election from May 5th to June 2nd and allowed "no-excuse" absentee voting. The Indiana Election Commission voted to make the change as well, although this practice was not allowed in the fall General election. SB 353 provides that only the General Assembly can set the "time, place or manner" of an election and the Governor has no power "to institute, increase, or expand vote by mail or absentee vote by mail," limiting that authority to the Indiana General Assembly, as well.
- On the energy/utility/telecommunications fronts, numerous bills continue to move through both the House and Senate. This week, the following bills were approved by their first chamber:
 - House Bill 1348 was approved by the full House of Representatives this week by a vote of 85-3. 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. 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 bill now moves to the Senate for further consideration.

- **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. Proponents argue that the measure provides some regulatory certainty to landowners, renewable developers, and utilities. Opponents are concerned that these statewide standards could undercut local governance. HB 1381 was approved by the full House of Representatives by a vote of 58-38 and is now eligible for consideration in the Senate.
- **Senate Bill 386** addresses cost securitization for stranded electric utility assets. The bill itself is energy resource neutral. As the energy industry continues to transition, rate regulated electric utilities will have power plants that are not yet fully depreciated but are approaching the end of their useful lives and will likely be retired over the next several years. SB 386 is an effort to provide ratepayers potential cost benefits as the utilities seek to recover capital costs which are included in rates paid by customers. Securitization is a financial tool – akin to refinancing a house mortgage – that could allow utilities to lessen the rate impact on customers of plant retirements. Securitization would allow customers to “pay off” the remaining costs of coal plants over a longer period of time at a lower rate. Specifically, an investor-owned electric utility (narrowly defined by the bill) with qualified capital costs of at least 5% of the electric utility’s total electric rate base, may file a petition with the IURC to issue securitization bonds, collect securitization charges, and encumber securitization property with a lien and security interest. If approved, the IURC will issue a financing order providing for the amount of qualified costs to be recovered by the electric utility and the period for collecting securitization charges, not to exceed 15 years. The 21st Century Energy Policy Development Task Force discussed this complex topic over the last two years and recommended further study. SB 386 creates a pilot program to help facilitate that study. The bill was approved by the Senate 39-6, and now moves to the House for further consideration.
- Legislation to expand Indiana’s broadband infrastructure continues to move forward. **Senate Bills 352, 359, and 377** are all being considered by the full Senate. All pertain to the buildout of broadband infrastructure throughout Indiana. Each bill takes a slightly different approach, but all 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. Also, on the telecommunications front, **House Bill 1164** contains a variety of provisions, including further restrictions on buried utility ordinances, cell tower height requirements, and cell tower separation distances and placements. In addition, HB 1164 would increase the ability of telecommunications providers to access local public rights-of-way, limit permitting and review for ROW access, and cap fees that local governments can charge for access and maintenance. HB 1164 is eligible for a final vote in the House of Representatives next week.
- There are other local government-related bills moving through the process, 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 was approved by the full Senate this week, 46-0, and will now be considered by the House of Representatives.
 - **House Bill 1437** contains similar language concerning local government’s ability to conduct meetings electronically in certain circumstances and with reasonable transparency guardrails. IMPA also worked with the bill author, Representative Tony 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 House voted 86-7 to send HB 1437 over to the Senate for further 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.