

## 2021 INDIANA GENERAL ASSEMBLY WEEK 5

- This was the fifth week of the 2021 legislative session, and it was a busy one. Committees churned out bills efficiently and floor activity increased in both the House of Representatives and the Senate. Several important pieces of legislation saw action and are moving through the process.
- In one of the more significant developments in the last week, it looks like there will be a delay in the state's receiving census information and data used for the redistricting of state and federal legislative district maps. This delay will likely mean a special legislative session later this summer, likely after July 1st. The Indiana House and Senate leaders indicated that this important work cannot be accomplished before the current regular session's planned adjournment in late April. The census data was supposed to be ready by the end of 2020.
- By a vote of 76-20, the Indiana House of Representatives approved House Bill 1002, legislation that would protect businesses from COVID-19-related lawsuits. House Bill 1002 would shield businesses and individuals from coronavirus civil liability lawsuits unless it acted with gross negligence, willful or wanton misconduct or intentional misrepresentation that could be proven with "clear and convincing evidence." The legislation specifically would protect individuals, corporations, health care providers, post-secondary educational institutions, limited liability companies, partnerships, local government units and any other legal entity. It would also shield businesses that produced pandemic-related materials, such as personal protective equipment, and provide immunity for medical providers who were required to delay non-emergency procedures at several points throughout the year as a result of the executive orders signed by the Governor. Senate Bill 1, which addresses the same topic, has been approved by the Senate and has already been considered by committee in the second chamber. The House Judiciary Committee approved SB 1, and it will now go to the full House for consideration. These bills are on similar fast tracks.
- This week, the House Rules and Legislative Procedures Committee approved House Bill 1123, which seeks to rein in some of the Governor's executive powers during emergencies and allows the General Assembly greater participation. As introduced, HB 1123 would have provided that an emergency order may not continue for longer than 30 days unless the emergency order is renewed for an additional 30 days by the Governor and the General Assembly is in session or the Governor has called for a special session under Article 4, Section 9 of the Indiana Constitution. As amended, however, the bill creates a new definition of an "emergency session" which would allow legislative leadership to call legislators into session if there is an emergency, and they would only be able to deal with emergency-related issues. (Under current law, only the Governor can call the General Assembly into a special session.) The revised 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 heads to the full House for consideration.
- The Indiana Senate approved Senate Bill 389 this week by a vote of 29-19. It is legislation that would effectively repeal IN Department of Environmental Management (IDEM) oversight of the state's wetlands. SB 389 repeals the law requiring a permit from IDEM for wetland activity in a state regulated wetland. The bill states that this repeal of that law is not intended to affect the regulation of the discharge of dredged or fill material into waters of the United States in Indiana under the federal Clean Water Act or the authorization of the State of Indiana to administer the National Pollutant Discharge Elimination System (NPDES) permit program. If passed, the bill will do away with any judicial or administrative action not disposed of before July 1, 2021. According to IDEM, there are at least two legal actions currently unresolved.
- Addressing social injustice and police reform is a priority in the IN General Assembly this session. In bipartisan fashion, with over 80 co-authors from both parties, House Bill 1006 was passed by the full House this week. Legislators worked across the political aisle and with representatives of the business, law enforcement and advocacy communities to develop thoughtful legislation that requires mandatory de-escalation training, creates transparent decertifying procedures, defines chokeholds and attempts to ban its use in most circumstances and charges law enforcement who turn off or disable body cameras with a misdemeanor.
- The House Utilities, Energy and Telecommunications Committee met this week to consider House Bills 1164, 1381 and 1520. As the General Assembly inches its way toward deadlines, the committee will likely have two meetings next week.
  - House Bill 1164 seeks to make numerous changes to existing laws surrounding the installation of small cell towers in communities throughout Indiana. Among those many provisions, HB 1164 amends the procedures for public utilities to apply for authorization to occupy and perform work in a public right-of-way controlled by a municipality or county executive. It also outlines several restrictions on the requirements that a municipality or county executive may impose for purposes of granting such authority to a public utility. The bill limits the nature of fees, terms, and conditions that may be imposed by a person or entity who owns tracks, conduits, subways, poles, or certain other equipment for accessing that property. The bill will be amended prior to a final vote at the next committee meeting.

- Action on House Bill 1381 was delayed due to time constraints. This legislation reflects one of the recommendations that emerged from the recently completed two-year 21st Century Energy Policy Development Task Force and seeks to establish statewide siting and zoning standards for commercial wind and solar developments. HB 1381 will be on the agenda for next week's meeting. A significant amendment is anticipated to address concerns by stakeholders.
- House Bill 1520 was approved by the committee unanimously. This measure is another 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 now moves to the full House for consideration.
- The Senate Utilities Committee also met this week and considered one bill, Senate Bill 386.
  - Senate Bill 386 addresses the concept of cost securitization for stranded electric utility assets. The bill itself does not deal with specific energy resource types, i.e. coal or natural gas, but rather is neutral in that regard. The measure seeks to recognize that as the energy industry continues to transition, rate regulated electric utilities will have power plants that are approaching the end of their useful lives and will likely be retired over the next several years. The measure 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 when plants are retired. 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.
  - Under the specific provisions of SB 386, an 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 the IURC approves such a petition, 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 bill was approved by the committee and will now be considered by the full Senate.
- On the local government front, several bills of interest have seen action. Of particular note are Senate Bill 369 and House Bill 1498.
  - 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 Senate Local Government Committee and now moves to the full Senate for consideration. A similar bill, House Bill 1437 is being heard in the House Government & Regulatory Reform Committee next week.
  - In the House of Representatives, House Bill 1498 was approved by the House Government & Regulatory Reform Committee. This bill deals with the publication of public notices. It allows cities and towns and other public bodies such as school boards, airport authorities and other local commissions to publish legal notices online on a legal public notice website in lieu of physical publication in a newspaper, which is current law. Under the provisions of HB 1498, public notices could be published on the entity's own website, or if they do not have one, they could publish on a county government site. It would be necessary for the general public to be able to access the website at all times and the website upon which the notices would be published would have to be registered with the Indiana Office of Technology. The bill also requires a political subdivision to designate an official responsible for the electronic publication of legal notices if the political subdivision publishes legal notices electronically. The bill is moving through the full House of Representatives and is eligible for a final vote in that chamber.
- Please see this week's IMPA Tracking List for further information on these and many other bills under consideration.



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