

STATE LEGISLATIVE UPDATE

February 18, 2022

2022 INDIANA GENERAL ASSEMBLY WEEK 7

2022 SESSION STATUS

- Week 7 of the 2022 legislative session has been a busy one. With the committee deadlines coming up next Tuesday (House) and Thursday (Senate), committees have been hard at work.
- The second half 3rd Reading deadlines for both the House and Senate are set for February 28th and March 1st, respectively. Conference committees will then start. Legislators have been advised to get their bills in order in regular committee and to avoid the conference process if possible. If the General Assembly is to finish earlier than March 14th, that will leave about a week and a half potentially to address the numerous issues that remain unresolved.

SPECIFIC LEGISLATION OF INTEREST

- House Bill 1001 - The Senate Health and Provider Services Committee significantly amended House Bill 1001 this week. HB 1001 is the House Republican priority bill dealing with administrative authority. In the House passed version, the bill severely limited Indiana employers' ability to have workplace COVID-19 vaccine mandates. It would have required employers to accept any requests for medical or religious exemptions with no questions asked. The Senate committee struck that language, and the bill now says that employers can deny or approve exemption requests based on existing federal regulations. Other changes include removing language enabling the Governor to end the public health emergency because that language is in Senate Bill 3. Additionally, the amended bill allows natural immunity exemptions to a vaccine mandate for three months versus six and allows employers to require employees who receive an exemption to be tested up to 2 times a week and is silent as to who pays for the testing. HB 1001 is now eligible for consideration by the full Senate.
- House Bill 1002 - HB 1002 is the major tax policy legislation for this session. As approved by the House, the bill contained over \$1 billion in various tax reductions for individual Hoosiers and businesses. Among the provisions of HB 1002 as it came out of the House was a reduction of the individual income tax rate from 3.23% down to 3% by 2026, exemption of the minimum tax on business personal property after January 1st for new equipment purchased by businesses (known as the 30% depreciation floor), and a repeal of the 1.4% utility receipts tax. On Tuesday this week, as predicted based on the more conservative and less aggressive approach of the Senate, the Senate Tax and Fiscal Policy Committee stripped the tax reductions from the bill. The committee chairman indicated that he and other senators are concerned about the uncertainty of the economy and that they are "entrenched" on prioritizing the payment of state debt before consideration of more broad tax reductions in a non-budget year. The Senate committee also added provisions addressing the food and beverage tax and a provision that would require the General Assembly's legislative approval before the IN State Lottery Commission could begin online games or ticket sales. HB 1002 was held and will reappear on next week's final committee meeting agenda.
- House Bill 1013 - As previously reported, Indiana is one of only 5 states in the nation that does NOT have a state fossil designated. House Bill 1013 designates the mastodon as the official state fossil of Indiana. According to committee testimony by a Hanover College professor, remains of approximately 300 mammoths and mastodons have been found in nearly all of the state's 92 counties. HB passed out of committee unanimously. HB 1013 was approved by the Senate without amendment, so its next stop will be the Governor's desk for signature into law.

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- **House Bill 1106** – Eminent domain has received quite a bit of attention this session. **Senate Bill 29** as it passed the Senate would raise the base compensation owed to property owners for the total taking of their property to 120% of the appraised market value. Utility easements/ROWs would not be included. **Senate Bill 288**, as it passed out of the Senate, deals with eminent domain actions filed by a public utility (including municipal utilities) or a pipeline company after June 30, 2022. Neither of these bills have received a committee hearing in the second chamber. **HB 1106**, which also deals with eminent domain, was heard by the Senate Local Government Committee this week. **HB 1106** makes changes to condemnation proceedings in which appraisers are appointed after December 31, 2022. It requires a municipality to obtain the county legislative body’s approval of a condemnation of property within the unincorporated area of the county. The language of **SB 29** was amended into **House Bill 1106**, as was language to exempt municipally-owned utilities from the provisions requiring county legislative approval. After lengthy testimony and discussion, the bill was held until next week.
- **House Bill 1116** - The Senate Elections Committee voted unanimously this past Monday to strip out a controversial provision from **HB 1116** as it was approved by the House that would have required voters who requested mail-in ballots to swear under possible penalty of perjury that they would not be able to vote in person at any time during the 28 days before Election Day. Supporters had maintained it was aimed at encouraging people to cast ballots in person during Indiana’s early voting period, but voting rights activists argued it would discourage people from selecting their most convenient way of voting. **HB 1116** was approved last month along party lines by the Republican-dominated House. The full Senate will now consider the legislation.
- **Senate Bill 1** – **SB 1** was approved by the House this week by a vote of 88-0. This legislation is notable as it expands the number of Hoosiers who are eligible to receive the anticipated \$125 automatic taxpayer refund. The bill will allow an Indiana resident who files an income tax return to receive the refund regardless of whether the taxpayer has enough income to owe any income tax to the state. These refunds are being made due to the state’s robust budget reserves.
- **Senate Bill 73** – **SB 73** is Senator Phil Boots’ perennial annexation legislation that has only passed the Senate during the last several legislative sessions. As reported in last week’s update, there had been a lot of chatter at the State House that **SB 73**, which passed the Senate a few weeks ago, would be granted a hearing in the House. The House Local Government Committee did, in fact, hold a hearing on the bill this week.
 - In essence, the bill eliminates any involuntary annexations by a municipality after March 31, 2022. Among its many provisions, **SB 73** provides that in order to proceed with an annexation initiated by the municipality, the municipality must file a petition with the court signed by at least 51% of the owners of non-tax-exempt land or the owners of at least 75% in assessed valuation of non-tax-exempt land in the proposed annexation territory. Additionally, if the petition has enough signatures, the court must hold a hearing to review the annexation. The bill also adds provisions regarding the validity of signatures. It eliminates remonstrances and reimbursement of remonstrators’ attorney’s fees and costs and it voids remonstrance waivers. The bill also would eliminate the requirement that a municipality adopt a fiscal plan if the annexation is petitioned for by 100% of the owners of land within the annexation territory.
 - Several stakeholders provided testimony in opposition to **SB 73**. AIM provided the most compelling comments focusing on the significant overhaul of Indiana’s annexation policy that took place in 2015, and the resulting arduous and difficult processes that were enacted into law. There was NO vote taken on **SB 73** and it will move no further in the process this session.

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- **Senate Bill 299** - This legislation applies to 100% voluntary annexations (when all property owners within the annexation territory petition the municipality to be annexed) where all or part of the territory to be annexed includes property within a fire protection district and for which the annexation ordinance was adopted after December 31, 2020. SB 299 allows a super voluntary annexation that meets certain criteria to take effect after at least 30 days rather than on the second January 1st after the ordinance is adopted and filed. This would allow expenditures for fire protection to shift a year sooner from a fire protection district that is losing a portion of its territory (no more than 3% of total net assessed value) to a municipality. Current law also provides that a municipality annexing a portion of a fire protection district is liable for a proportional amount of the fire protection district's debt. SB 299 is eligible for consideration by the full House.
- **House Joint Resolution 3** - This HJR addresses the line of succession for the office of Governor. Because the office of Superintendent of Public Instruction is now an appointed position, HJR 3 removes it from the list of officeholders who would be in line to serve as Governor if the office of Governor and Lt. Governor are both vacant.

ENERGY/UTILITY LEGISLATION OF INTEREST

- **Senate Bill 271** - SB 271 requires the IN Utility Regulatory Commission (IURC), in consultation with IDEM, to adopt rules concerning the granting of certificates (CPCN) for the construction, purchase or lease of small modular nuclear reactors (SMRs) in Indiana for the generation of electricity for use by Indiana utility customers or at the site of a nuclear energy production or generating facility that supplies electricity to Indiana retail customers as of July 1, 2011 (Cook facility in Michigan).
 - The bill also provides that the IURC rules must provide that in acting on a public utility's CPCN for SMRs, the IURC shall consider whether, and to what extent, the SMRs will replace lost generation capacity in the public utility's portfolio resulting from the retirement or planned retirement of one or more existing coal or natural gas electric generating facilities that are located in Indiana. Additionally, the IURC must consider whether the SMRs will be located on the same site as or near the retiring facility and, if so, potential opportunities for the public utility to make use of any land and existing infrastructure or facilities already owned or under the control of the public utility or if the SMR project would create new employment opportunities for workers who have been, or would be, displaced as a result of the retirement of the existing facility.
 - SB 271 also adds SMRs to the statutory list of what constitutes clean energy projects in Indiana and allows for certain financial incentives for those projects that are constructed after June 30, 2023.
- **Senate Bill 411** - This legislation establishes the Commercial Wind and Solar Energy Ready Communities Development Center within the IN Economic Development Corporation (IEDC). It sets up a process for the IEDC to certify local units as wind and solar ready communities if they meet certain requirements and siting standards. The certification process is completely voluntary and is a local option if the local unit chooses to do it. If a local unit receives certification as a Commercial Solar/Wind Energy Ready Community and if the project owner submits for approval under and follows the standards provided in the legislation, the IEDC shall authorize the community to receive over a 10-year period of time \$1/MWh of electricity generated by the project. SB 411 was approved by the House Utilities, Energy and Telecommunications Committee, but has been recommitted to the Ways and Means committee. Ways and Means will hear it on Monday.

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- **House Bill 1245** - This legislation would prohibit a local unit of government or a water or wastewater utility that is not under IURC jurisdiction from charging a connection fee that includes contributions in aid of construction (CIACs) for any fees established after June 30, 2022. CIACs are generally associated with new development and refer to money or property that is contributed by the developer to the local unit or utility to allow for improvements that are made necessary by adding the new properties to the system. If a property owner is charged such a connection fee, they may file a petition with the IURC to invalidate or modify the fee. The bill also specifies that a property owner with a working septic system does not have to connect to a sewer system for a period of 10 years from when the septic system was installed. The property owner may also apply for two five-year extensions if the septic system continues to work properly. The Senate Utilities Committee took more than two hours of testimony on the bill, and ultimately held the bill for potential amendment and vote next week.

Please see this week's updated tracking list for additional information on these and other pieces of legislation that are potentially continuing their journey through the legislative process.

