



# STATE LEGISLATIVE UPDATE

## March 13, 2020

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### 2020 Indiana General Assembly Wrap-Up

- ▲ The Indiana Senate and House of Representatives officially completed the work of the 2020 “short” legislative session and adjourned Sine Die late Wednesday night and early Thursday morning, respectively, meeting their goal of completing business before the statutory deadline of March 14th. While the goal was to end early and under budget, the Big 10 Men’s Basketball tournament was set to start on the 11th, making hotel space a bit more limited for lawmakers who stay in Indianapolis during the legislative session.
- ▲ On Organization Day last November, then Speaker of the House Brian Bosma announced that he would be stepping down from his role as Speaker by the end of the 2020 legislative session, and that he would be resigning from the legislature shortly after the conclusion of the session. In December, House Republicans circled their wagons around State Representative Todd Huston to succeed Speaker Bosma as the next Speaker of the House. As had been planned, and for the first time in a decade, the Speaker’s gavel was transferred on Monday March 9th. Representative Huston was selected Speaker of the House by acclamation of the full House of Representatives.
- ▲ Some of the key issues that the General Assembly focused on during the 2020 legislative session include:
  - Education
  - Health care costs, including surprise billing and cost transparency
  - Continued efforts to combat the opioid crisis
  - Several initiatives tied to workforce, including one that focused on careers in the utility industry
  - Raising the age for individuals to purchase tobacco and vaping products (in conjunction with the federal regulation that is now in effect) and penalties for retailers who violate that regulation
  - Banning the use of cell phones while driving

- ▲ For IMPA and our municipal electric members, we watched all legislation for possible impact on our interests. While several energy and utility-related bills were introduced, those issues did not dominate the agenda this year, with one exception, House Enrolled Act 1414, which became known as the “coal bailout” bill. We also kept tabs on local government-related issues, economic development, and environmental matters.
- ▲ Of note, no significant annexation legislation made it through the process this year.
- ▲ Some topics of interest for municipal utilities generally (not just electric) include: locating of underground facilities, rural broadband service, water and wastewater rates and charges, the extension of water and sewer mains, and a measure that addresses the responsibility of property owners in the event a tenant fails to pay their municipal utility bill (water, wastewater, gas, and/or electric; not sewer). This issue was addressed during the 2019 legislative session. This year’s effort was to “clarify” what was approved during the last session.
- ▲ In the late hours of the final night of session, lawmakers failed to come to terms on a few bills, notably Senate Bill 178 and House Bill 1279. SB 178 would have created a mechanism to remove the Indiana Attorney General from office should his law license be suspended. Also left on the cutting room floor was HB 1279, a controversial measure that would have instituted penalties for Indianapolis’ transit system “Indy Go” if it did not meet a threshold for private fundraising related to its boost in income tax revenue that took effect in 2017. That legislation could have jeopardized the proposed blue and purple rapid transit lines.

### By the Numbers

In the Indiana General Assembly this year, over 900 pieces of legislation were introduced. At the half-way mark, 283 were still alive. Upon final



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adjournment of the regular session this week, 168 bills (79 Senate Bills and 89 House Bills) – 19% of the introduced bills -- survived the legislative process and were sent to the Governor for signature into law.

### Of Political Interest

- ▲ The retirement/resignation count for state legislators not seeking re-election this year is 10:

- State Representative Ron Bacon
- State Representative Pat Bauer
- State Representative Brian Bosma
- State Representative Woody Burton
- State Representative Mara Candelaria Reardon
- State Representative Dan Forestal
- State Representative Karlee Macer
- State Senator Victoria Spartz
- State Senator Mark Stoops
- State Representative David Wolkins

- ▲ On the Congressional front, there will be two open Indiana Congressional seats this year with the retirements of long time US Representative Pete Visclosky in Congressional District 1 and Congresswoman Susan Brooks in the 5th district. CD 1 is solidly Democratic and there are 14 individuals vying in the Primary to be the candidate in the fall election. Not to be outdone in the more politically marginal CD 5, there are 16 Republicans seeking the nod to take on the Democratic challenger in the fall. There are 5 Democrats on the primary ballot in this district.

- ▲ Now that the IN General Assembly has concluded, it is time to shift the focus toward election year politics. Not only are all 100 state House of Representatives seats up for election this year, so too are 25 state Senate seats. Governor Holcomb is seeking re-election, with his running mate, Lt.

▲ Governor Suzanne Crouch. Also on the 2020 ballot are the offices of IN Attorney General and Secretary of State. Finally, all 9 US House of Representatives seats are on the ballot, while Indiana's two US Senators are not up for re-election this year.

### General Legislation

- ▲ **House Enrolled Act 1070 – Distracted Driving/Ban on Handheld Mobile Device while Driving**  
Hands-free driving was one of Governor Holcomb's priorities for the 2020 legislative session. Under the provisions of the final bill, it provides that, except in certain circumstances, a person may not hold or use a telecommunications device while operating a moving motor vehicle. Removes prohibitions on typing, transmitting, or reading a text message or an electronic mail message while operating a moving motor vehicle. Provides that the bureau may not assess points under the point system for a violation occurring before July 1, 2021.
- ▲ **House Enrolled Act 1004 – Health Care, Including Surprise Billing**  
HEA 1004 contains provisions that is intended to help prevent patients from receiving "surprise bills" from providers who end up being out-of-network even though the patient went to an in-network facility. This legislation seeks to ensure that patients will not face unexpected charges if they go to an in-network facility, but a service is done by an out-of-network doctor. Patients could be billed out-of-network charges if they are given a good faith estimate at least 5 days in advance of a procedure.

- ▲ **House Enrolled Act 1022 – Panhandling**  
HEA 1022 became a highly controversial measure in the last days of the session. It targets Marion County and the prevalence of panhandlers in the downtown Indianapolis area, but it would apply statewide. Specifically, HEA 1022 provides that a person who panhandles within 50 feet of the entrance or exit to a bank, business, or restaurant, any location where a



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financial transaction occurs, or a public monument commits the offense of panhandling, which is a Class C misdemeanor. Financial transaction includes any exchange of money that is received by a business, parking meter, parking garage, public transportation authority facility or pay station, or a restaurant. Anyone who knowingly or intentionally panhandles, regardless of the time of day, commits the crime of panhandling, which is a Class C misdemeanor. Prior to this, it would be a criminal offense to panhandle within 20 feet of an ATM or entrance to a bank or when the individual being solicited is at a bus stop, in a vehicle or in the sidewalk dining area of a restaurant.

### ▲ Senate Enrolled Act 1 – Smoking/Vaping Age to 21 Years Old, Penalties for Retailers

SEA 1 addresses the age at which tobacco products and e-cigarettes can be purchased and makes conforming changes in Indiana law that reflect the new federal regulation that officially changed the federal minimum age to purchase tobacco and vaping products to 21 years of age. SEA 1 makes it a Class C misdemeanor if a tobacco and vaping business operates within 1,000 feet of a public or private elementary or secondary school and stipulates that a retail establishment in which tobacco products, electronic cigarettes, and e-liquids account for at least 85% of the retail establishment's gross sales may not allow a person who is less than 21 years of age to enter the retail establishment and is not subject to a statute prohibiting sales of tobacco or electronic cigarettes through a self-service display.

### ▲ Senate Enrolled Act 148 – Landlord/Tenant Relationships

SEA 148 is a state preemption of local ordinances that addresses landlord tenant relationships. In other words, cities and towns across Indiana – not just in Indianapolis – would be prohibited from regulating any relationship between a landlord and a tenant. The measure also contains anti-retaliation language, making it illegal for landlords to increase rents or take other actions against a tenant who reports problems with their housing.

### ▲ Senate Enrolled Act 350 – Central Indiana Regional Development Authority

SEA 350 authorizes counties and municipalities within the Indianapolis metropolitan area to establish a central Indiana Regional Development

Authority pilot program that will sunset on July 1, 2025. The measure requires counties and municipalities that wish to establish the development authority to adopt substantially similar resolutions that would allow them to adopt a preliminary strategic economic development plan (preliminary development plan). The development authority shall be governed by a strategy committee composed of members selected according to the terms of the preliminary development plan that is adopted to establish the development authority. SEA 350 outlines the specific duties of the development authority and requires the development authority to prepare a comprehensive strategic economic development plan.

## Energy and Utilities

▲ For IMPA and our municipal electric members, we monitored all legislation for possible impact on our interests. While several energy and utility-related bills were introduced, those issues did not dominate the agenda this year, with one exception. Here are the highlights of what the General Assembly considered and approved.

### ▲ House Enrolled Act 1414 – Electric Generation

Both the Indiana House of Representatives and the Senate passed different versions of House Enrolled Act 1414 during the session. This legislation became the marquee energy bill for the 2020 session. IMPA was engaged in all discussions surrounding this legislation. It was dubbed early on as the "coal bailout" bill for its controversial provisions that would put a pause on the closure of certain power plants without approval from the IN Utility Regulatory Commission (IURC). In early February, the House voted 52-41 to move the legislation to the Senate. After significantly amending it, the Senate passed it by a vote of 37-11, sending it back to the House for concurrence or dissent on the Senate changes. During the conference committee process, both the House and Senate Democrat conferees were pulled off the bill, leaving only Republicans to work out compromise. In its final form, HEA 1414 contains the following provisions:



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- May 1, 2021 sunset (expiration date);
- Requires public utilities that own and operate reliable capacity resources (units > 80 MWs) to operate the units using good utility practices and in a manner reasonably intended to support the unit's availability for dispatch;
- Requires utilities to provide at least 3 years advance notice to the IURC before terminating a power agreement with a legacy generation resource in which the utility has an ownership interest, with the IURC making determinations for reasonable cost recovery through a fuel adjustment charge proceeding;
- Requires utilities that are planning to retire, sell or transfer a reliable capacity resource (units > 80 MWs) before May 1, 2021 to give the IURC notice of their intention to do so and the IURC will then conduct a public hearing within 120 days to receive information, analyze the information and reach a conclusion as to the reasonableness of the planned retirement, sale or transfer;
- Requires that if a public utility cites a federal mandate as the basis, in whole or in part, for the planned retirement, sale, or transfer of the reliable capacity resource, the IURC may consider as part of its analysis and conclusions whether the cited federal mandate is in force, has not expired or been revoked, and is not merely anticipated to be enacted;
- Retains the Senate workforce retraining language that gives priority status to “coal transition workers” and defines those workers as individuals who are laid off or terminated from a commercial coal mine in Indiana, at a coal-fired electric generating unit in Indiana, or in an Indiana based manufacturing or transportation supply chain serving a commercial coal mine or a coal-fired electric generating unit in Indiana.

▲ **House Enrolled Act 1218 – Underground Locates**  
HEA 1218 amends the Indiana 811 law and provides that for any new or replacement underground facility that an operator installs or causes to be installed after June 30, 2020, the operator shall ensure that the materials from which the facility is constructed are capable of being detected from above ground level using standard locating equipment and technologies. If the materials from which the facility is constructed are not capable of being detected from above, the facility must be encased by conductive material or be equipped with an electrically conducting wire or other means of locating the facility while it is underground.

▲ **Senate Enrolled Act 254 – Water and Wastewater Utilities**  
SEA 254 is another effort by the General Assembly to help address the issue of long-term lead exposure in water lines, specifically the replacement of lead water pipes owned by a water utility customer. SEA 254 modifies the IURC's ability to adjust rates for water or wastewater utilities in connection with eligible infrastructure improvements and the bill expands current law to include municipal water utilities that are under the jurisdiction of the IURC. Currently, there are 24 municipally owned water utilities under IURC jurisdiction. The bill would also allow Indiana's jurisdictional water utilities to more quickly recover the cost of addressing emerging water pollutants.

▲ **Senate Enrolled Act 177 – Administration of the Broadband Ready Program**  
SEA 177 moves the Broadband Ready Program to the Office of Community and Rural Affairs (OCRA) from the IN Economic Development Corporation (IEDC). OCRA has many more resources by which to market the program throughout Indiana.

▲ **House Enrolled Act 1066 – Various Education Matters**  
HEA 1066 is included in this report because of a provision that was included in the conference committee report pertaining to workforce development in the utility industry. As you may recall, Senate Bill 195 passed the Senate earlier in the session and included language that would have spurred the development of a new career and technical



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education cluster to allow students to acquire knowledge and skills related to employment in the electric, natural gas, communications, water, and wastewater utility industries. SB 195 was approved by the Senate, but it did not receive a hearing in the House. The provisions incorporated into HEA 1066 urge the State Board of Education and the Governor's Workforce Cabinet, in concert, to develop course sequences that lead to student concentrators in industries or occupational fields related to the provision of utility services, and then to approve a utility-focused career cluster. This sunsets July 1, 2021.

### ▲ **House Enrolled Act 1165 – Municipally Owned Utilities**

HEA 1165 is the municipal utility billing legislation that seeks to clarify perceived loopholes in last year's legislation (HEA 1347) that prohibited municipal utilities from holding property owners responsible for the unpaid utility bills of their tenants, unless the property owner voluntarily requests to hold the utility bill in his/her name. This legislation impacts all cities and towns that own and operate municipal water, electric, wastewater, and/or gas utilities. The legislation stipulates that municipalities cannot require property owners to co-sign a service agreement or otherwise be held responsible for a tenant's utility charges. The property owner can still voluntarily enter that agreement.

### ▲ **House Enrolled Act 1131 – Water and Wastewater Systems**

HEA 1131 makes several changes to the statute that subjects a water or wastewater utility organized after June 30, 2018, to the jurisdiction of the Indiana Utility Regulatory Commission (IURC) regarding certain aspects of the water or wastewater utility's operations for a period of 10 years. Under this legislation, the term "water or wastewater utility" includes a municipally owned utility that provides water service to less than 8,000 customers. It requires the IURC, in a rate case for a water or wastewater utility that extends service to an infrastructure development zone, to approve inclusion in the water or wastewater utility's rate schedule of a surcharge payable only within the geographic area of the infrastructure development zone. HEA 1131 requires that, with respect to any water or wastewater main extension, a municipal utility shall comply with the IURC's rules governing water or wastewater main extensions, regardless of whether the utility is subject to

the IURC's jurisdiction for rates and charges. A dispute arising over a water or wastewater main extension may be submitted as an informal complaint to the IURC's consumer affairs division, regardless of whether the person requesting the extension is a customer of the utility involved. If the IURC determines that it requires additional staff to handle the volume of informal complaints submitted, the IURC may impose a fee on a party against whom a decision is rendered. The bill stipulates that certain procedures for acquisition by a municipal utility of property of another utility will apply to acquisition by a non-municipal utility of property of another utility, and it prescribes requirements regarding appraisal of the value of utility property acquired by a non-municipal utility. For purposes of the factors the IURC must consider in determining whether a utility that acquires property of an offered utility may include the cost differential of the offered utility's property as part of the acquiring utility's rate base, that an offered utility is too small to capture economies of scale or is not furnishing or maintaining adequate, efficient, safe, and reasonable service and facilities if the IURC finds that the offered utility serves fewer than 8,000 customers (rather than 5,000 customers under current law). Please see the Tracking List for full details of the many provisions in this legislation.

**Thank you for following along throughout  
the excitement of the 2020  
Legislative Session.**

**Until next year!**