



STATE LEGISLATIVE UPDATE

2019 Session Wrap-Up

This report and its contents are the proprietary work-product of IMPA. Please do not reproduce or distribute this report, in whole or in part, without the express permission of IMPA. © 2019

General Interest

- ▲ The 2019 “long”, 16-week legislative session came to a peaceful end at approximately 11:00 p.m. on Wednesday April 24th, a full 5 days before the statutory deadline of April 29th. By the end of the final day, the Indiana General Assembly approved a new two-year, \$34.6 billion state budget, an expanded gaming bill dealing with casinos in Gary and Terre Haute, and approved legislation that keeps the Pacers in Indianapolis for another 25 years and funds a new soccer stadium for the Indy Eleven.
- ▲ Back in January, all four caucuses of the General Assembly put forth their priorities for the session. There were several policy areas that had bipartisan support, including increased teacher pay and strengthening the IN Department of Child Services (DCS). But there were several other issue areas that would be a bit more challenging to address, such as the budget, K-12 education funding, bias crimes, sports gaming, school safety, workforce development, many other social, economic, criminal justice, environmental, and local government matters.
- ▲ On the utility and energy fronts, this session was not dominated by electric utility issues. There were bills of interest pertaining to water infrastructure (**Senate Enrolled Act 4, House Enrolled Act 1406**), sewer and water connections through rights-of-way (**Senate Enrolled Act 193**), telephone solicitation (**House Enrolled Act 1123**), and rural broadband deployment (**Senate Enrolled Act 460**).
- ▲ There were several bills introduced in January that had broad implications for municipal utilities generally. Of note was **House Enrolled Act 1347**, which concerns all municipalities in Indiana that provide municipal utility services (water, wastewater, electric, etc.). HEA 1347 stipulates that a municipality cannot hold a property owner (landlord) accountable for a renter’s utility bill IF the utility service agreement is only in the renter’s name. The bill does not preclude a utility from having the utility service contract in the renter AND the property owner’s name. We continue to believe that there are local processes in place that will allow municipal utilities to continue to work with property owners and tenants. We were successful in getting onerous regulatory language removed from the introduced bill, and kept some troubling amendments at bay, as well.
- ▲ Several annexation bills were introduced this year, with most of them being generally less than favorable to municipalities. **Senate Enrolled Act 94** was the most onerous of those in its introduced form, containing several damaging provisions that would have curbed what little annexation authority remains for local units. SEA 94 was changed dramatically in the second house and contained only study committee language when it was approved.
- ▲ In total this session, 1394 bills and joint resolutions were introduced for consideration by the General Assembly. At the end, 293 bills survived the entire legislative process and have been sent to the Governor. To date, Governor Holcomb has signed a little more than 100 bills into law.
- ▲ The list of items the General Assembly did **not** approve includes: an increase in the cigarette tax or a tax on the liquids used for e-cigarettes, pay day lending legislation that would have created new subprime loan products with interest rates above the state’s loan-sharking rate cap of 72%, and an 18-month moratorium on any final IURC approvals of filings for a Certificate of Public Convenience and Necessity (CPCN) or purchase power agreements over a 250 MW threshold.



STATE LEGISLATIVE UPDATE

2019 Session Wrap-Up

This report and its contents are the proprietary work-product of IMPA. Please do not reproduce or distribute this report, in whole or in part, without the express permission of IMPA. © 2019

Additional Legislation of General Interest

- ▲ **House Enrolled Act 1001 – The Budget**

HEA 1001, the biennial state budget, was the one bill required to be approved this year. Crafting the final budget became more challenging in the last days of the session due to a lower than expected revenue forecast that came out with one week left. The General Assembly had about \$100 million less to work with for the next two years. HEA 1001 increases school funding by 2.5% in 2020 and 2021, providing an additional \$539 million in base funding for K-12 education, and includes \$74 million in additional dollars for other education programs, like the Teacher Appreciation Grant program and the Secured School Safety Grant program. It also allows the state to take \$150 million from its reserves to pay off a future teacher pension obligation. That one-time payment is expected to save schools \$70 million per year, which can be put toward teacher salary increases. The Indiana Department of Child Services will receive an increase of \$256 million to its budget in 2020 and \$246 million in 2021. The agency had requested \$286 million per year in additional funding, but the leadership at DCS is confident they do not need that much money to make necessary improvements to the agency. HEA 1001 provides funding for Workforce Ready Grants from \$2 million per year to \$4 million per year, and doubles funding for the Next Level Employer Training Grants from \$10 million per year to \$20 million per year. Please see the Tracking List for complete details on all provisions.
- ▲ **House Enrolled Act 1015 – Gaming Issues**

HEA 1015 became the sweeping gambling bill of the 2019 legislative session. The bill takes one of the City of Gary's two casino licenses and allows it to be moved to a location further inland so that it is more accessible. It will cost the holder of that license \$20 million to move it. It takes the second license and relocates it to the Terre Haute area in Vigo County in what is hoped to be an effort to spur economic development in that city. Additional provisions in the bill include moving up the timeline for live table games at Indiana's horseracing casinos (racinos) to January 2020 and capping the number of casino and racino licenses that can be held by one operator at six, rather than two. Importantly, HEA 1015 legalizes sports wagering in Indiana at casinos and on mobile devices.

The bill also includes “hold harmless” language that reimburses communities that are expected to see decreases in gaming revenue as a result of the changes in casino licenses. This “hold harmless” provision will apply to East Chicago, Hammond, Michigan City, French Lick and Evansville.

- ▲ **House Enrolled Act 1284 – Self-Defense (Stand Your Ground) and Firearms**

HEA 1284 contains several provisions pertaining to handgun regulation and protection to gun owners. The measure provides greater protection to gun owners in situations involving self-defense. Under previous law, the legal burden for immunity was on the defendant in situations involving exercising the right to self-defense and the justified use of force. Under HEA 1284, that burden is shifted. Additionally, a person who acts in self-defense and is later forced to defend themselves a second time in court can be reimbursed for the legal fees associated with their defense. The bill also allows churches or churches with a school on the property to determine their policy of allowing gun owners to carry their weapons on that property. HEA 1284 also increases the duration of a short-term handgun license from 4 to 5 years and allows individuals to simultaneously hold a five-year license and a lifetime carry license. The new law makes changes to the license fee schedule, eliminating the fees for the short-term licenses. A life time carry license still has a cost.
- ▲ **House Enrolled Act 1405 – Economic Development/Data Centers**

Commonly referenced as the “data center” bill, HEA 1405 allows property, sales, and use tax exemptions for the purchase of equipment used in data centers (large facilities that maintain computer servers that store large amounts of data and use large amounts of energy). The bill provides that to receive the sales tax exemption on equipment purchased, the data center must be the result of a qualified investment of \$25 million to \$150 million within 5 years. The electricity used by the equipment will be exempt from sales tax for 25 years. If the investment is more than \$750 million, that exemption will be for 50 years.



STATE LEGISLATIVE UPDATE

2019 Session Wrap-Up

This report and its contents are the proprietary work-product of IMPA. Please do not reproduce or distribute this report, in whole or in part, without the express permission of IMPA. © 2019

▲ **Senate Enrolled Act 2 – School Bus Safety**

SEA 2 was brought to the General Assembly after the tragic death of 3 children in northern Indiana when a vehicle failed to stop for a school bus that was picking the kids up. In addition to increasing the penalties for individuals who fail to stop when a school bus has its stop arms extended, SEA 2 places several new requirements on school bus drivers in the course of operating that bus.

▲ **Senate Enrolled Act 7 - Marion County Capital Improvement Board**

SEA 7 is legislation addressing the funding needs of the Marion County Capital Improvement Board (CIB). The tax provisions of this legislation allow for the funding of an expansion of the Indianapolis Convention Center; creates the framework for the CIB to partner and keep the Indiana Pacers in Indianapolis for the next 25 years, and helps craft the requirements for a public-private partnership to build a stadium for the Indy Eleven soccer team.

▲ **Senate Enrolled Act 565 – Various Tax Matters**

SEA 565 contains numerous tax-related provisions. Of note for utilities, SEA 565 provides a new method to calculate the utility receipts tax and utility services use tax rates and replaces the current 1.4% tax rate with the new annual rate starting January 1, 2021. The URT currently contributes approximately \$200 million in revenue to the state's general fund. The long-term fiscal impact of this change will depend on growth/decline in taxable gross receipts.

Specific Energy, Environment, Utility-Related Legislation

▲ **Senate Enrolled 240 - Terrorism**

The relevance of SEA 240 lies in the language it contains that mirrored language in Senate Bill 304 which addressed the issue of intimidation of utility workers. The specific reference to utility workers was removed from SB 304 early in the session and replaced by language that broadened the scope of who would have been protected from various threats and intimidating behaviors, including utility workers. SB 304 did not receive a committee hearing during the second half of the session and died. However, Senate Enrolled Act 240 contains identical language that does protect utility workers and it has already been signed into law by the Governor.

▲ **Senate Enrolled Act 442 – Underground Storage of CO₂**

SEA 442 authorizes a carbon sequestration pilot project that will capture the carbon dioxide at a proposed ammonia production facility in West Terre Haute and inject the CO₂ into underground strata and formations. The measure provides that if the operator of the pilot project is not able to reach an agreement with a property owner to acquire ownership of underground strata or formations located under the surface of the property for purposes of establishing and operating monitoring facilities required by the EPA, then the operator of the pilot project may exercise the power of eminent domain to make the acquisition. Any acquisitions by eminent domain must be made through the existing law on eminent domain for gas storage. The final version of SEA 442 also calls for an interim study committee on the geologic storage of CO₂.



STATE LEGISLATIVE UPDATE

2019 Session Wrap-Up

This report and its contents are the proprietary work-product of IMPA. Please do not reproduce or distribute this report, in whole or in part, without the express permission of IMPA. © 2019

▲ **Senate Enrolled Act 471 – Offenses Involving Critical Infrastructure**

SEA 471 increases penalties for those who trespass or vandalize property that is considered a “critical infrastructure facility.” Examples of these types of facilities would be a fenced-in area that houses telecommunications equipment, a power substation facility, gas pipelines, and chemical plants, among others. The measure faced criticism from some organizations that believe the bill could infringe on First Amendment (free speech) rights to peacefully protest near properties that have these types of facilities on them.

▲ **Senate Enrolled Act 472 – Utility Matters**

Senate Enrolled Act 472 is legislation pertaining to municipal water utilities and proposes some changes to the distressed utility statute. During the second half of the session, the House Energy, Utilities and Telecommunications Committee Chairman Ed Soliday (R-Valparaiso) added language in committee creating the 21st Century Energy Policy Development Task Force. The Energy Task Force would examine all aspects of Indiana’s overall electric generation mix, and whether Indiana is positioned with the right combination of resources to meet our future needs. A controversial amendment also added to the bill did two things: established an IURC study of the statewide impact of changes in fuel sources and technologies used for electricity generation and called for a moratorium (suspension) of any final IURC approvals of filings for a Certificate of Public Convenience and Necessity (CPCN) or purchase power agreements that are over a 250 MW threshold until January 1, 2021. This would have impacted fossil fuel (natural gas primarily) and renewable projects. This language was removed from the bill as it moved through the full House. As the bill went back to the Senate following House approval, the energy task force language was removed because it was not germane to the original bill. However, the energy task force provisions and IURC study was inserted into House Enrolled Act 1278 during the final days of the session.

▲ **House Enrolled Act 1278 – Environmental Matters**

HEA 1278 became the comprehensive environmental legislation of the session, gaining final approval on the last day. SEA 1278 contains numerous provisions including language concerning IDEM permit fees, reporting, Environmental Rules Board membership, and the energy task force and IURC study language from SEA 472.

▲ **House Enrolled Act 1470 – Utility Transmission Improvements and Costs**

HEA 1470 amends the Transmission, Distribution, and Storage Improvement Charges (TDSIC) statute and applies to rate regulated electric utilities. This measure pertains to electric and gas utility infrastructure improvement projects and the regulatory process that rate regulated utilities must go through at the IURC for cost recovery. HEA 1470 provides a new process under which the IURC would approve new TDSIC plans that are filed by utilities if certain specific conditions are met. Under the bill’s provisions, if the IURC determines that the public utility’s new projects or improvements are reasonable, the IURC shall approve the new projects or improvements and authorize TDSIC treatment for the new projects or improvements.

- ▲ In the coming weeks, the Legislative Council, which is the governing arm of the Indiana General Assembly when the legislature is not in session, will meet to determine topics for summer study and assign those topics to the appropriate interim study committee.