



THE CORYDON GROUP

1/29/2016

SESSION - Week 4

IOA Weekly Update

Click here for current bill track:

<http://tinyurl.com/IOAbilltrack>

A very important deadline has passed at the Statehouse this week. Bills had to be out of Committee in their House of Origin by the end of the day yesterday. As you review your bill track, any bill that does not have an action item "Committee Report Adopted" is dead for the session. While that does not mean the subject matter cannot be inserted elsewhere, it is unlikely.

Med Mal (SB 152)

Embodied in SB 152, introduced by Sen. Brent Steele, raises the caps in the Act. The cap would increase to \$1.65 Million (currently \$1.25 Million), the front end (provider share) increased to \$450,000 (\$250,000), direct access to the courts to \$75,000 (\$15,000). The bill also provides for increases in the caps based on the CPI. Additionally, the bill calls for sanctions to be available to the plaintiff if the case is not meeting the timelines in the act.

Sen. Steele had several meetings with ISMA, IHA and the Indiana Trial Lawyers Association (ITLA), a group he calls the Gang of 3. Late last week there was rumored to be a deal among the Gang of 3:

1. Removal of the Sanctions
2. \$1.65 Million Cap
3. \$450,000 front end
4. \$35,000 direct access
5. CPI increase every 4 years capped at 3%

The deal fell apart when the ITLA argued that they understood that # 5 would be an every 4 year increase but at 3% per year, or 12%. Of course, ISMA and IHA objected. The bill was scheduled to be heard on Monday of this week. With ISMA and IHA opposing the bill, Sen. Steele pulled the bill from further consideration. Effectively killing the bill.

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Yesterday, Sen. David Long, President Pro Tem of the Senate, met with IHA representatives and urged them strongly to find resolution and attempt to pass a bill. He, and a number of health lawyers, are concerned failure to act puts the constitutionality of the Act in question.

Death Certificates

Rep. Ron Bacon's Death Certificate Bill passed the House by a vote of 94-0. The bill will allow emergency physicians who are in attendance at a death but cannot attest to the cause and manner of death to pass the case to the coroner.

Pseudoephedrine

The House Public Health Committee took up the issue of pseudoephedrine this week. Monday morning the committee heard testimony on three different proposals to curb the meth lab problem in the state. Rep. Wendy McNamara, Rep. Ben Smaltz, and Rep. Dave Frizzell all had different versions that would address the issue. Rep. McNamara's bill, in short, would have decreased the daily, monthly, and yearly amounts that an individual could purchase without having to get a prescription for the product. Rep. Smaltz's bill, which originally was the closest attempt at prescription-only pseudoephedrine, was amended to allow for an individual who is a "patient of record" with a pharmacy to be able to buy the same limits that they can today. Someone who is not a patient of record would be offered a tamper resistant product, or if rejected by the consumer, the pharmacy could give them 30 mg tablets, or 24 pills. If rejected still, a prescription would be required. Rep. Frizzell's bill is the companion bill to a pill moving through the Senate (SB 161) and would require any drug related offense to be reported to the NPLEx system for a "no sale" alert to prohibit the sale of pseudoephedrine products to those convicted of such an offense. Rep. Smaltz's bill (HB 1390) and Rep. Frizzell's bill (HB 1157) both passed out of committee on Wednesday. They move to the House floor next week.

SB 80, Sen. Randy Head's pharmacist consultation bill for the purchase of pseudoephedrine products, was engrossed on second reading this week. It will be up for a vote on third reading next week. Also, SB 161, Sen. Mike Young's NPLEx bill, was recommitted to Senate Appropriations committee and heard on Thursday morning. It passed out of that committee 13-0 and will head to the Senate floor next week.

Telemedicine

Contained in HB 1263, Rep. Cindy Kirchhofer is moving a bill that removes the prohibition on prescriptions being issued on a telemedicine encounter with a previous face-to-face encounter with the provider. This bill has wide support.

The long-anticipated debate over LGBT rights legislation began this week in the Senate. While this debate consumed much of the media attention, each chamber began moving their road funding proposals and other agenda items through the committee process in order to beat the committee report deadline in each chamber.

Thursday was the first major deadline day of session as any bill in either chamber that had not been passed out of committee prior to Thursday's session times effectively died for the session. As such, nearly all committees were stacked with work the first three days of the week in an attempt to keep as much legislation moving through the process as possible. A few bills, including a proposal that would re-score last year's ISTEP test and the House GOP road funding plans were passed out of the House Ways and Means Committee just before the start of House session on Thursday morning.

Competing road funding plans advanced through the House and Senate. HB 1001, the House GOP road funding plan, would increase infrastructure funding by raising taxes on cigarettes and gas, was passed by the House Ways and Means Committee. HB 1001 would raise the fuel tax 4 cents, a number they claim adjusts for inflation as the gas tax has not

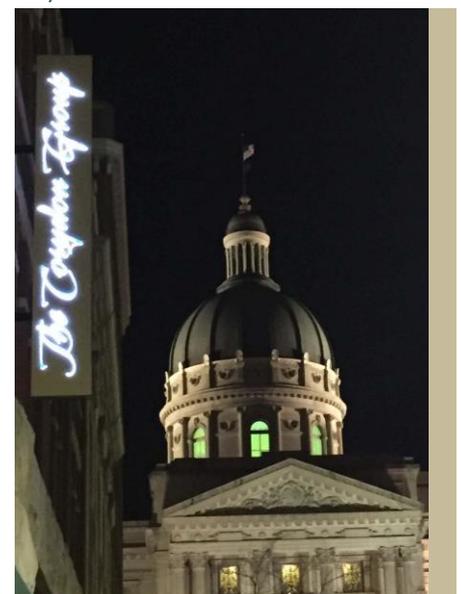
been raised for 10 years. The proposal also dedicates all gas taxes to road funding. Currently, \$300M in gas taxes are spent on Medicaid programs. HB 1001 would also increase the cigarette tax by \$1 per pack, replacing the estimated \$300 million in the fuel sales taxes that are currently funding Medicaid. After passing the House Roads and Transportation Committee the Ways and Means Committee approved the measure, but not before including a 5% reduction in the state's income tax to be phased in through 2024. The bill will move to the House floor next week for second reading and debate on further amendments.

The Senate GOP road funding bill which is backed by Governor Pence, SB 333, was passed unanimously by the Senate Appropriations Committee. SB 333 aims to increase road funding by drawing from the state's reserve fund and borrowing \$1 billion in bonds for infrastructure improvements over four years. Both Senate Republicans and Governor Pence are adamant that raising taxes of any kind is not the answer to the infrastructure problem in Indiana. Road funding will be a central theme as these two proposals switch chambers in the coming weeks.

In the race for the seat vacated by U.S. Senator Dan

Coats, the three announced Republicans have officially filed to run with the Secretary of State. U.S. Representative Marlin Stutzman (R – District 3), former aide to Sen. Coats Eric Holcomb, and U.S. Representative Todd Young (R – District 9) will square off in the GOP primary and will likely face Democrat Baron Hill in the General election. Former Rep. Hill has yet to file with the Secretary of State.

Yorktown Community Schools Superintendent Jennifer McCormick filed as a republican challenger to current democratic Superintendent of Public Instruction Glenda Ritz. This announcement makes McCormick the first candidate to enter the race against the incumbent. Supt. Ritz has had a divisive and combative tenure with Republican lawmakers and Gov. Pence during the past three years following her upset victory in 2012 over former Supt. Tony Bennett.



SPECIAL UPDATE: LGBT CIVIL RIGHTS LEGISLATION

Efforts to expand Indiana's civil rights laws began following national attention over SEA 101 (2015), the Religious Freedom Restoration Act (RFRA). The law set a judicial standard for weighing religious objections but prompted boycotts and event cancellations amid concerns it would allow businesses to turn away same sex couples indiscriminately. In response, Governor Mike Pence and lawmakers sought a legislative "fix" during the 2015 session of the General Assembly to prevent the law from being used to circumvent local nondiscrimination ordinances. However, the controversy drew attention to Indiana's lack of statewide LGBT protections, resulting in the introduction of several bills seeking to address LGBT civil rights this year. Opposed to the expansion of LGBT rights are religious conservatives and the Indiana Pastors Alliance who fear that LGBT civil rights will come at the expense of restricted religious freedoms. Supporting expanded civil rights are the Indiana Chamber of Commerce, Freedom Indiana – an LGBT rights organization, the Indy Chamber and several other business and tourism entities.

While Senate leadership appears poised to pass some form of expanded rights, the viability of such legislation seems less certain in the House and with the governor. During his annual State of the State address, Governor Pence stressed that he would not support legislation which would appear to erode religious liberties. In response to the governor's stance, House Speaker Brian Bosma (R – Indianapolis) suggested that legislation may face issues in the House, "I think it does make passage more difficult because I'm not certain there is a solution on the table that meets the requirements that the governor indicated he is looking for."

Numerous pieces of legislation have been introduced addressing the debate over LGBT civil rights and were heard in the Senate Rules and Legislative Procedures Committee Wednesday evening. The committee did not hear the democratic proposal which would prohibit discrimination and provide no exemptions for religion. Instead, the committee focused on SB 344. In a surprising move, the bill was amended to effectively repeal RFRA and codify the legal standard used prior to last year's controversy. SB 344 also prohibits discrimination on the basis of sexual orientation and assigns the topic of gender identity to a study committee. While all four democrats on the committee voted against the measure, arguing it did not go far enough, the bill was largely supported by business and LGBT rights organizations as a positive, but incomplete, step. Religious conservatives argued against the bill, claiming it would erode religious liberties. The bill passed out of committee on a vote of 7-5 with all democrats and one republican, Sen. Dennis Kruse (R – Auburn), voting against the bill.

Other related legislation includes HB 1221 which would ask voters on a 2016 ballot if the General Assembly should pass protected class status for sexual orientation and gender identity, HB 1079 which makes it a Class B misdemeanor for someone to enter a single-sex restroom not designated for their biological sex, and SB 35 which requires restrooms in a school to be designated for single-sex use and makes it a Class A misdemeanor for students to use a restroom not designated for their biological sex. SB 66, dubbed "Super RFRA" by LGBT rights organizations, would have repealed the current RFRA legislation and replaced it with even more stringent protections for firearms, assembly, speech and religion. These bills failed to achieve a hearing in committee before the first half committee report deadlines- killing them for the session.

| | <i>Prohibits LGBT Discrimination</i> | <i>Provides Religious Exemptions</i> | <i>Current Status</i> |
|--------|--|---|---|
| SB 344 | Yes but gender identity would be sent to a study committee | Yes for small buisnesses and religiously affiliated organizations | Amended to repeal RFRA and codify the 'material burden' analysis. Passed in committee |
| SB 100 | Yes | Yes, same as SB 344 | Did not achieve a vote |
| SB 66 | No, repeals RFRA and institutes stricter protections | Yes | Did not achieve a hearing |
| SB 2 | Yes | No | Did not achieve a hearing |

RECAP: INDIANA HOUSE OF REPRESENTATIVES

Dates to Remember

February 3rd: 3rd Reading
Deadline for House and
Senate

February 25th: Senate
Committee Report
deadline on House Bills

February 29th: House
Committee Report
Deadline on Senate Bills

March 2nd: 3rd reading
Deadline for Senate

March 3rd: 3rd Reading
Deadline for House and
conference committees
begin

On the heels of the signing of HB 1003, another measure in House Speaker Brian Bosma's (R – Indianapolis) agenda advanced. On Tuesday, HB 1002 which was authored by Rep. Bosma, passed the House floor on third reading. HB 1002, also known as the Next Generation Hoosier Educators Scholarship is a measure to address Indiana's teacher shortage and would provide \$7,500 a year in scholarships to university students in Indiana who are studying education and commit to teaching in Indiana for five years. The bill came at the urging and support of State Superintendent Glenda Ritz as well as numerous business and educational organizations.

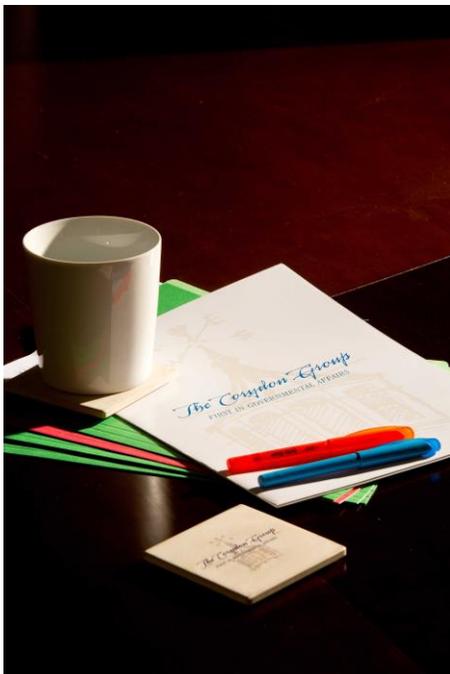
The House Environmental Affairs Committee passed a controversial bill on Wednesday which would prevent state agencies from enacting environmental rules and policies tougher than state regulations. The bill received negative attention from environmental affairs groups who cited events such as the water crisis in Flint, MI as causes for concern. The bill narrowly passed out of committee on a vote of 7-6 and may face opposition in the Senate which defeated a similar bill in committee last year.

A bill which would have removed the restriction on Sunday alcohol sales failed in

the House Public Policy committee on a vote of 8-5. The bill, authored by the committee's chairman Rep. Tom Dermody (R – LaPorte), would have required retailers to keep displays away from toys and school supplies and barred stores from selling mini bottles of liquor. This was Chairman Dermody's second attempt at passing a Sunday Sales bill as the Chairman of the House Public Policy Committee.

Two bills were also approved by the Committee on Public Health addressing the availability of pseudoephedrine. HB 1390 which allows a pharmacist to deny the sale of pseudoephedrine and HB 1157 which requires drug related criminals to be reported to a national 'no sale' database both passed. Similar legislation was advanced in the Senate last week.

Following numerous accusations of police misconduct in the news, a bill was introduced which addresses concerns regarding public access to footage from a police body camera. The bill provides for more access but if a police department denies access, requires the individuals trying to access the footage to convince a judge to have the footage released. The bill passed the House floor on Tuesday and is headed to the Senate for action.



While media coverage of the Senate – and much of the chamber Leadership's time was dominated by the debate over LGBT rights expansion, there was significant activity in other committees through the week.

Perhaps just as hotly debated as the proposed legislation on LGBT rights was SB 313 which passed the Senate Committee on Health and Provider Services. SB 313, similar to a bill which failed last year, prohibits a person from performing an abortion if the person knows that the pregnant woman is seeking the abortion because of the race, color, national origin, ancestry, or sex of the fetus or a diagnosis of the fetus having Down syndrome or any other disability. Supporters of the bill argued that it helps to correct a system which devalues the lives of disabled children while opponents argued that the bill breaks federal law and is an overreach of state power.

An item from the governor's agenda advanced out of Senate Appropriations onto the Senate floor this week. SB 302, which provides a third installment of \$42 million for the Regional Cities Initiative, came at the urging of the governor after the Indiana Economic Development Corporation awarded three grants rather than the original two allotted by the General Assembly in the state budget last year. The original \$84 million and additional \$24 million is to be drawn from the tax amnesty program, which brought in a larger amount than expected.

The Senate also debated this week a bill that would establish the policy framework – but no funding – to support before and after school programs operated through schools. The Indiana Out of School Time Learning Fund, established by SB 251, would be administered by the Department of

Education and funded through appropriations, gifts, fees and grants. Amendments offered to the bill to reduce the liability the state would incur to the fund were defeated. The bill passed on Third Reading and has been referred to the House where it is being sponsored by Education Committee Chairman Bob Behning.

Also receiving support from the Senate was a bill which would regulate daily fantasy sports games such as FanDuel and DraftKings. Under SB 339, paid fantasy sports games can be managed through a website controlled and operated by a licensed game operator who pay an annual fee of \$5,000. It also requires participants to be 18 years of age and bars games centered on collegiate and high school sports. SB 339 does not impose taxes on daily fantasy sports games. The bill passed unanimously from committee.

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