

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

**MR. SPEAKER:**

I move that House Bill 1164 be amended to read as follows:

- 1 Page 2, after line 25, begin a new paragraph and insert:
- 2 "SECTION 2. IC 6-9-32 IS ADDED TO THE INDIANA CODE AS A
- 3 NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 4 1999]:
- 5 **Chapter 32. Delaware County Innkeeper's Tax**
- 6 **Sec. 1. (a) This chapter applies to a county having a population**
- 7 **of more than one hundred twelve thousand (112,000) but less than**
- 8 **one hundred twenty five thousand (125,000).**
- 9 **(b) The:**
- 10 **(1) convention, visitor, and tourism promotion fund;**
- 11 **(2) convention and visitor commission;**
- 12 **(3) innkeeper's tax rate; and**
- 13 **(4) tax collection procedures;**
- 14 **established under IC 6-9-18 before July 1, 1999, if any, remain in**
- 15 **effect and govern the county's innkeeper's tax until amended under**
- 16 **this chapter.**
- 17 **(c) A member of the convention and visitor commission**
- 18 **established under IC 6-9-18 before July 1, 1999, if any, shall serve**
- 19 **a full term of office. If a vacancy occurs, the appointing authority**
- 20 **shall appoint a qualified replacement as provided under this**
- 21 **chapter. The appointing authority shall make other subsequent**
- 22 **appointments to the commission as provided under this chapter.**
- 23 **Sec. 2. As used in this chapter:**
- 24 **(1) "executive" and "fiscal body" have the meanings set**
- 25 **forth in IC 36-1-2; and**
- 26 **(2) "gross retail income" and "person" have the meanings**
- 27 **set forth in IC 6-2.5-1.**

1           **Sec. 3. (a) The fiscal body of a county may levy a tax on every**  
2 **person engaged in the business of renting or furnishing, for periods**  
3 **of less than thirty (30) days, any room or rooms, lodgings, or**  
4 **accommodations in any:**

- 5           (1) hotel;
- 6           (2) motel;
- 7           (3) boat motel;
- 8           (4) inn;
- 9           (5) college or university memorial union;
- 10          (6) college or university residence hall or dormitory; or
- 11          (7) tourist cabin;

12 **located in the county.**

13           **(b) The tax does not apply to gross income received in a**  
14 **transaction in which:**

- 15          (1) a student rents lodgings in a college or university
- 16          residence hall while that student participates in a course of
- 17          study for which the student receives college credit from a
- 18          college or university located in the county; or
- 19          (2) a person rents a room, lodging, or accommodations for a
- 20          period of thirty (30) days or more.

21           **(c) The tax may not exceed the rate of five percent (5%) on the**  
22 **gross retail income derived from lodging income only and is in**  
23 **addition to the state gross retail tax imposed under IC 6-2.5.**

24           **(d) The county fiscal body may adopt an ordinance to require**  
25 **that the tax be reported on forms approved by the county treasurer**  
26 **and that the tax shall be paid monthly to the county treasurer. If**  
27 **such an ordinance is adopted, the tax shall be paid to the county**  
28 **treasurer not more than twenty (20) days after the end of the**  
29 **month the tax is collected. If such an ordinance is not adopted, the**  
30 **tax shall be imposed, paid, and collected in exactly the same**  
31 **manner as the state gross retail tax is imposed, paid, and collected**  
32 **under IC 6-2.5.**

33           **(e) All of the provisions of IC 6-2.5 relating to rights, duties,**  
34 **liabilities, procedures, penalties, definitions, exemptions, and**  
35 **administration are applicable to the imposition and administration**  
36 **of the tax imposed under this section except to the extent those**  
37 **provisions are in conflict or inconsistent with the specific**  
38 **provisions of this chapter or the requirements of the county**  
39 **treasurer. If the tax is paid to the department of state revenue, the**  
40 **return to be filed for the payment of the tax under this section may**  
41 **be either a separate return or may be combined with the return**  
42 **filed for the payment of the state gross retail tax as the department**  
43 **of state revenue may, by rule, determine.**

44           **(f) If the tax is paid to the department of state revenue, the**  
45 **amounts received from the tax imposed under this section shall be**  
46 **paid monthly by the treasurer of state to the county treasurer upon**  
47 **warrants issued by the auditor of state.**

48           **Sec. 4. (a) The county treasurer shall establish a convention,**  
49 **visitor, and tourism promotion fund. The treasurer shall deposit in**  
50 **this fund all amounts the treasurer receives under that section.**

51           **(b) The county auditor shall issue a warrant directing the**  
52 **county treasurer to transfer money from the convention, visitor,**

1 and tourism promotion fund to the treasurer of the commission  
 2 established under section 5 of this chapter if the commission  
 3 submits a written request for the transfer.

4 (c) Money in a convention, visitor, and tourism promotion  
 5 fund, or money transferred from such a fund under subsection (b),  
 6 may be expended:

7 (1) to promote and encourage conventions, visitors, and  
 8 tourism within the county; and

9 (2) to promote and encourage industrial and economic  
 10 development within the county. However, the county may not  
 11 expend more than twenty-five percent (25%) of the revenues  
 12 from the tax imposed under section 3 of this chapter to  
 13 promote and encourage industrial and economic  
 14 development.

15 Expenditures under subdivision (1) may include, but are not  
 16 limited to, expenditures for advertising, promotional activities,  
 17 trade shows, special events, and recreation.

18 (d) If before July 1, 1997, the county issued a bond with a  
 19 pledge of revenues from the tax imposed under IC 6-9-18-3, the  
 20 county shall continue to expend money from the fund for that  
 21 purpose until the bond is paid.

22 Sec. 5. (a) The county executive shall create a commission to  
 23 promote the development and growth of the convention, visitor,  
 24 and tourism industry in the county. If two (2) or more adjoining  
 25 counties desire to establish a joint commission, the counties shall  
 26 enter into an agreement under IC 36-1-7.

27 (b) The county executive shall determine the number of  
 28 members, which must be an odd number, to be appointed to the  
 29 commission. A simple majority of the members must be:

30 (1) engaged in a convention, visitor, or tourism business; or

31 (2) involved in or promoting conventions, visitors, or  
 32 tourism.

33 If available and willing to serve, at least two (2) of the members  
 34 must be engaged in the business of renting or furnishing rooms,  
 35 lodging, or accommodations (as described in section 3 of this  
 36 chapter). Not more than one (1) member may be affiliated with the  
 37 same business entity. No more than a simple majority of the  
 38 members may be affiliated with the same political party. Each  
 39 member must reside in the county. The county executive shall also  
 40 determine who will make the appointments to the commission,  
 41 except that the executive of the largest municipality in the county  
 42 shall appoint a number of the members of the commission, which  
 43 number shall be in the same ratio to the total size of the  
 44 commission (rounded off to the nearest whole number) that the  
 45 population of the largest municipality bears to the total population  
 46 of the county.

47 (c) If a municipality other than the largest municipality in the  
 48 county collects fifty percent (50%) or more of the tax revenue  
 49 collected under this chapter during the three (3) month period  
 50 following imposition of the tax, the executive of the municipality

1 shall appoint the same number of members to the commission that  
 2 the executive of the largest municipality in the county appoints  
 3 under subsection (b).

4 (d) Except as provided in subsection (c), all terms of office of  
 5 commission members begin on January 1. Initial appointments  
 6 must be for staggered terms, with subsequent appointments for  
 7 two (2) year terms. A member whose term expires may be  
 8 reappointed to serve another term. If a vacancy occurs, the  
 9 appointing authority shall appoint a qualified person to serve for  
 10 the remainder of the term. If an initial appointment is not made by  
 11 February 1 or a vacancy is not filled within thirty (30) days, the  
 12 commission shall appoint a member by majority vote.

13 (e) A member of the commission may be removed for cause by  
 14 the member's appointing authority.

15 (f) Members of the commission may not receive a salary.  
 16 However, commission members are entitled to reimbursement for  
 17 necessary expenses incurred in the performance of their respective  
 18 duties.

19 (g) Each commission member, before entering the member's  
 20 duties, shall take an oath of office in the usual form, to be endorsed  
 21 upon the member's certificate of appointment and promptly filed  
 22 with the clerk of the circuit court of the county.

23 (h) The commission shall meet after January 1 each year for  
 24 the purpose of organization. It shall elect one (1) of its members  
 25 president, another vice president, another secretary, and another  
 26 treasurer. The members elected to those offices shall perform the  
 27 duties pertaining to the offices. The first officers chosen shall serve  
 28 from the date of their election until their successors are elected and  
 29 qualified. A majority of the commission constitutes a quorum, and  
 30 the concurrence of a majority of the commission is necessary to  
 31 authorize any action.

32 **Sec. 6. (a) The commission may:**

33 (1) accept and use gifts, grants, and contributions from any  
 34 public or private source, under terms and conditions that the  
 35 commission considers necessary and desirable;

36 (2) sue and be sued;

37 (3) enter into contracts and agreements;

38 (4) make rules necessary for the conduct of its business and  
 39 the accomplishment of its purposes;

40 (5) receive and approve, alter, or reject requests and  
 41 proposals for funding by corporations qualified under  
 42 subdivision (6);

43 (6) after its approval of a proposal, transfer money,  
 44 quarterly or less frequently, from the fund established under  
 45 section 4(a) of this chapter, or from money transferred from  
 46 that fund to the commission's treasurer under section 4(b) of  
 47 this chapter, to any Indiana not-for-profit corporation to  
 48 promote and encourage conventions, visitors, or tourism in  
 49 the county; and

50 (7) require financial or other reports from any corporation

1           that receives funds under this chapter.  
 2           **(b) All expenses of the commission shall be paid from the fund**  
 3 **established under section 4(a) of this chapter or from money**  
 4 **transferred from that fund to the commission's treasurer under**  
 5 **section 4(b) of this chapter. The commission shall annually prepare**  
 6 **a budget, taking into consideration the recommendations made by**  
 7 **a corporation qualified under subsection (a)(6), and submit it to the**  
 8 **county fiscal body for its review and approval. An expenditure may**  
 9 **not be made under this chapter unless it is in accordance with an**  
 10 **appropriation made by the county fiscal body in the manner**  
 11 **provided by law.**

12           **Sec. 7. All money coming into possession of the commission**  
 13 **shall be deposited, held, secured, invested, and paid in accordance**  
 14 **with statutes relating to the handling of public funds. The handling**  
 15 **and expenditure of money coming into possession of the**  
 16 **commission is subject to audit and supervision by the state board**  
 17 **of accounts.**

18           **Sec. 8. (a) A member of the commission who knowingly:**  
 19           **(1) approves the transfer of money to any person or**  
 20 **corporation not qualified under law for that transfer; or**  
 21           **(2) approves a transfer for a purpose not permitted under**  
 22 **law;**  
 23 **commits a Class D felony.**

24           **(b) A person who receives a transfer of money under this**  
 25 **chapter and knowingly uses that money for any purpose not**  
 26 **permitted under this chapter commits a Class D felony."**

27           Renumber all SECTIONS consecutively.  
 (Reference is to HB1164 as printed February 25, 1999.)

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Representative MUNSON