



January 13, 2000

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## SENATE BILL No. 216

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DIGEST OF SB216 (Updated January 10, 2000 11:18 am - DI kc)

**Citations Affected:** IC 6-9.

**Synopsis:** Allows the Allen County fiscal body to impose a supplemental food and beverage tax. The tax rate may not exceed 1%. Provides that the current Allen County food and beverage tax rate may not exceed 1% less the supplemental tax rate. The tax revenue under the new tax must be used only for any acquisition, improvement, remodeling, or expansion of an athletic and exhibition coliseum.

**Effective:** Upon passage.

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### Wyss, Meeks C, Long

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January 10, 2000, read first time and referred to Committee on Rules and Legislative Procedure.  
January 12, 2000, amended; reassigned to Committee on Finance.

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SB 216—LS 6694/DI 13+



January 13, 2000

Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

## SENATE BILL No. 216

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-9-23-5 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE UPON PASSAGE]: Sec. 5. The county food and  
3 beverage tax imposed on a food or beverage transaction described in  
4 section 4 of this chapter equals:

5 (1) one percent (1%) of the gross retail income received by the  
6 merchant from the transaction; **minus**

7 (2) **the rate imposed under IC 6-9-33.**

8 For purposes of this chapter, the gross retail income received by the  
9 retail merchant from such a transaction does not include the amount of  
10 tax imposed on the transaction under IC 6-2.5 or **IC 6-9-33.**

11 SECTION 2. IC 6-9-23-8 IS AMENDED TO READ AS FOLLOWS  
12 [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If a tax is imposed under  
13 section 3 of this chapter, the county treasurer shall establish a coliseum  
14 expansion fund. The county treasurer shall deposit in this fund all  
15 amounts received from the tax imposed under this chapter. Money in  
16 this fund may be appropriated only

17 (†) ~~for any acquisition, improvement, remodeling, or expansion~~

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1 of:

2 (A) an athletic and exhibition coliseum in existence before the  
3 effective day of an ordinance adopted under section 3 of this  
4 chapter; or

5 (B) if approved by an ordinance of the county fiscal body  
6 (other than an appropriations ordinance); an athletic and  
7 exhibition coliseum in existence before January 1, 1998; and  
8 (2) to retire any bonds issued, loans obtained, or lease payments  
9 incurred under IC 36-1-10 (referred to in this chapter as  
10 "obligations") to remodel, expand, improve, or acquire:

11 (A) an athletic and exhibition coliseum in existence before the  
12 effective day of an ordinance adopted under section 3 of this  
13 chapter; or

14 (B) if approved by an ordinance of the county fiscal body  
15 (other than an appropriations ordinance), an athletic and  
16 exhibition coliseum in existence before January 1, 1998.

17 (b) Obligations entered into for the acquisition, expansion,  
18 remodeling, and improvement of an athletic and exhibition coliseum  
19 shall be retired by using money collected from a tax imposed under this  
20 chapter.

21 (c) Money collected under this chapter and set aside for debt reserve  
22 before July 1, 1998; may not be used for the purposes set forth in  
23 subsection (a)(1):

24 SECTION 3. IC 6-9-33 IS ADDED TO THE INDIANA CODE AS  
25 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
26 PASSAGE]:

27 **Chapter 33. Allen County Supplemental Food and Beverage Tax**

28 **Sec. 1. This chapter applies to a county having a population of**  
29 **more than three hundred thousand (300,000) but less than four**  
30 **hundred thousand (400,000).**

31 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**  
32 **chapter.**

33 **Sec. 3. (a) After January 1 but before June 1, the fiscal body of**  
34 **a county may adopt an ordinance to impose an excise tax, known**  
35 **as the county supplemental food and beverage tax, on those**  
36 **transactions described in section 4 of this chapter.**

37 **(b) If a fiscal body adopts an ordinance under subsection (a), it**  
38 **shall immediately send a certified copy of the ordinance to the**  
39 **commissioner of the department of state revenue.**

40 **(c) If a fiscal body adopts an ordinance under subsection (a), the**  
41 **county supplemental food and beverage tax applies to transactions**  
42 **that occur after June 30 of the year in which the ordinance is**



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1 adopted.

2 (d) The tax terminates two (2) years after the retirement of debt  
3 that was incurred under this chapter.

4 Sec. 4. (a) Except as provided in subsection (c), a tax imposed  
5 under section 3 of this chapter applies to any transaction in which  
6 food or beverage is furnished, prepared, or served:

7 (1) for consumption at a location, or on equipment, provided  
8 by a retail merchant;

9 (2) in the county in which the tax is imposed; and

10 (3) by a retail merchant for consideration.

11 (b) Transactions described in subsection (a)(1) include  
12 transactions in which food or beverage is:

13 (1) served by a retail merchant off the merchant's premises;

14 (2) sold by a retail merchant who ordinarily bags, wraps, or  
15 packages the food or beverage for immediate consumption on  
16 or near the retail merchant's premises, including food or  
17 beverage sold on a "take out" or "to go" basis; or

18 (3) sold by a street vendor.

19 (c) The county supplemental food and beverage tax does not  
20 apply to the furnishing, preparing, or serving of any food or  
21 beverage in a transaction that is exempt, or to the extent exempt,  
22 from the state gross retail tax imposed by IC 6-2.5 or IC 6-9-23.

23 Sec. 5. The county supplemental food and beverage tax imposed  
24 on a food or beverage transaction described in section 4 of this  
25 chapter may not exceed one percent (1%) of the gross retail income  
26 received by the merchant from the transaction. For purposes of  
27 this chapter, the gross retail income received by the retail  
28 merchant from such a transaction does not include the amount of  
29 tax imposed on the transaction under IC 6-2.5.

30 Sec. 6. The tax that may be imposed under this chapter shall be  
31 imposed, paid, and collected in the same manner that the state  
32 gross retail tax is imposed, paid, and collected under IC 6-2.5.  
33 However, the return to be filed for the payment of the tax under  
34 this chapter may be made separately or may be combined with the  
35 return filed for the payment of the state gross retail tax, as  
36 prescribed by the department of state revenue.

37 Sec. 7. The amounts received from the county supplemental food  
38 and beverage tax imposed under this chapter shall be paid monthly  
39 by the treasurer of state to the county treasurer upon warrants  
40 issued by the auditor of state.

41 Sec. 8. If a tax is imposed under section 3 of this chapter, the  
42 county treasurer shall establish a supplemental coliseum



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1 **improvement fund. The county treasurer shall deposit in this fund**  
 2 **all amounts received from the tax imposed under this chapter.**  
 3 **Money in this fund may be appropriated only:**

- 4 (1) **for acquisition, improvement, remodeling, or expansion of;**  
 5 **or**  
 6 (2) **to retire or advance refund bonds issued, loans obtained,**  
 7 **or lease payments incurred under IC 36-1-10 (referred to in**  
 8 **this chapter as "obligations") to remodel, expand, improve, or**  
 9 **acquire;**

10 **an athletic and exhibition coliseum in existence before the effective**  
 11 **date of an ordinance adopted under section 3 of this chapter.**

12 **Sec. 9. (a) The county may enter into an agreement under which**  
 13 **amounts deposited in, or to be deposited in, the supplemental**  
 14 **coliseum expansion fund are pledged to payment of obligations**  
 15 **issued to finance the remodeling, expansion, or maintenance of an**  
 16 **athletic and exhibition coliseum under section 8 of this chapter.**

17 (b) **Obligations entered into for the acquisition, expansion,**  
 18 **remodeling, and improvement of an athletic and exhibition**  
 19 **coliseum shall be retired by using money collected from a tax**  
 20 **imposed under this chapter.**

21 (c) **With respect to obligations for which a pledge has been made**  
 22 **under subsection (a), the general assembly covenants with the**  
 23 **holders of these obligations that:**

- 24 (1) **this chapter will not be repealed or amended in any**  
 25 **manner that will adversely affect the imposition or collection**  
 26 **of the tax imposed under this chapter; and**  
 27 (2) **this chapter will not be amended in any manner that will**  
 28 **change the purpose for which revenues from the tax imposed**  
 29 **under this chapter may be used;**

30 **as long as the payment of any of those obligations is outstanding.**

31 **SECTION 4. An emergency is declared for this act.**

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SENATE MOTION

Mr. President: I move that Senator Meeks C be added as second author and Senator Long be added as coauthor of Senate Bill 216.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 216, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

(Reference is to SB 216 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Finance.

GARTON, Chairperson

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