February 2, 2007

HOUSE BILL No. 1166

DIGEST OF HB 1166 (Updated January 31, 2007 3:12 pm - DI 103)

Citations Affected: IC 5-29; IC 6-2.5; IC 6-8.1; IC 6-9; noncode.

Synopsis: Sales tax rebate for developing a tourist site. Authorizes the office of tourism development to enter into an agreement for a state sales tax rebate with the operator of a new tourism attraction. Establishes the criteria for awarding rebates. Establishes procedures for claiming rebates. Appropriates money to the department of state revenue for the payment of rebates. Reduces the number of members of the Lake County convention and visitor bureau (bureau) from 15 to 11. Makes various changes to bureau duties and membership qualifications. Specifies that the bureau is a political subdivision for purposes of the Indiana tort claims act. Extends the terms of certain bureau members.

Effective: Upon passage; July 1, 2007.

Cochran, Stemler, Buck, Harris T

January 11, 2007, read first time and referred to Committee on Small Business and Economic Development.
February 1, 2007, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

C o p y

February 2, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

C o p y

HOUSE BILL No. 1166

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

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

SECTION 1. IC 5-29-1-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. "Entertainment destination center" means a facility containing at least one hundred thousand (100,000) square feet of building space that:**

(1) is adjacent or complementary to an existing tourism attraction, a tourism attraction project being developed under IC 5-29-5, or a convention facility; and

(2) provides its patrons a variety of leisure and entertainment options, including:

(A) at least one (1) major themed restaurant; and

(B) at least three (3) additional entertainment venues, including any of the following:

(i) Live entertainment facilities.

(ii) Multiplex theaters.

(iii) Large format theaters.

(iv) Motion simulators.

(v) Family entertainment centers.
(vi) Concert halls.
(vii) Virtual reality or other interactive games.
(viii) Museums.
(ix) Exhibitions.
(x) Other cultural or leisure time activities.

SECTION 2. IC 5-29-1-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6. "Person" means any association, corporation, limited liability company, fiduciary, individual, joint stock company, joint venture, partnership, sole proprietorship, or other private legal entity.**

SECTION 3. IC 5-29-1-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. "Qualified project costs" means the following costs incurred in the development of a tourism attraction project:**

(1) The cost of acquisition and construction of the tourism attraction project or any modification, improvement, or extension of the tourism attraction project.
(2) Any cost related to the acquisition of any necessary property, easement, or right-of-way.
(3) Engineering or architectural fees, legal fees, accountants' fees, and financial advisers' fees.
(4) Any cost incurred for preliminary planning to determine the economic or engineering feasibility of a proposed tourism attraction project.
(5) The costs of:
(A) economic investigations and studies;
(B) surveys;
(C) preparation of designs, plans, working drawings, and specifications; and
(D) the inspection and supervision of the construction of the tourism attraction project.
(6) Any cost incurred in equipping or furnishing the tourism attraction project.
(7) Any cost incurred to fund any liability, other loss, or insurance reserves or the funding and contribution of such insurance reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses.

SECTION 4. IC 5-29-1-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

C o p y

1, 2007]: **Sec. 8. (a) "Tourism attraction" means any of the following:**

(1) A cultural or historic site.

(2) A recreation or entertainment facility.

(3) An area of natural phenomenon or scenic beauty.

(4) An entertainment destination center.

(5) An amusement park.

(6) A water park.

(b) The term does not include any of the following:

(1) A racetrack or satellite facility licensed under IC 4-31.

(2) A riverboat licensed under IC 4-33.

(3) A facility located in a professional sports development area established under IC 36-7-31 or IC 36-7-31.3.

(4) A lodging or dining facility unless the facility is located in an entertainment destination center.

(5) A retail facility other than a gift shop or other retail operation that is operated as a subordinate part of an entertainment destination center or other tourism attraction.

(6) A recreational facility that is not operated as a visitor destination.

SECTION 5. IC 5-29-1-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9. (a) "Tourism attraction project" means any work or undertaking to develop a tourism attraction, including:**

(1) the acquisition of buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances;

(2) the installation of utilities; and

(3) any other work necessary for the development or redevelopment of real property for an entertainment, a recreational, or a cultural purpose designed to attract tourists.

(b) The term includes site preparation, the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other connected work. The term also includes the acquisition, reconstruction, rehabilitation, alteration, or major repair of existing buildings or improvements.

SECTION 6. IC 5-29-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

C o p y

Chapter 5. Tourism Attraction Projects

Sec. 1. A person that proposes to operate a tourism attraction to create new jobs in Indiana may apply to the office to enter into an agreement for a state gross retail tax rebate under this chapter. The director shall prescribe the form of the application.

Sec. 2. After receipt of an application, the office may enter into an agreement with the applicant for a state gross retail tax rebate under this chapter if the office determines that all the following conditions exist:

(1) The applicant's tourism attraction project will create new jobs that were not jobs previously performed by employees of the applicant in Indiana.

(2) The applicant's tourism attraction project is economically sound and will benefit the citizens of Indiana by increasing opportunities for employment in Indiana and strengthening the economy of Indiana.

(3) Receiving the state gross retail tax rebate is a major factor in the applicant's decision to go forward with the tourism attraction project, and not receiving the state gross retail tax rebate will result in the applicant not creating new jobs in Indiana.

(4) Awarding the state gross retail tax rebate will result in an overall positive fiscal impact to the state, as certified by the office of management and budget using the best available data.

(5) The office determines that the applicant's total qualified project costs will exceed five million dollars ($5,000,000).

(6) At least twenty-five percent (25%) of the visitors to the applicant's tourism attraction will be residents of other states.

(7) The state gross retail tax rebate is not prohibited by section 3 of this chapter.

Sec. 3. A person may not receive a state gross retail tax rebate under this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. Determinations under this section shall be made by the office.

Sec. 4. The office shall enter into an agreement with a person that is awarded a state gross retail tax rebate under this chapter for a tourism attraction project. The agreement must include all the following:

(1) A detailed description of the tourism attraction project that is the subject of the agreement.

(2) A detailed listing of each retail merchant who makes or

C o p y

will make retail transactions at the tourism attraction.

(3) A requirement that the person shall maintain operations at the tourism attraction for at least two (2) years following the last calendar year in which the person receives a state gross retail tax rebate under this chapter. A taxpayer is subject to an assessment under section 7 of this chapter for noncompliance with the requirement described in this subdivision.

(4) A requirement that the person shall provide written notification to the director and the department of state revenue not more than thirty (30) days after the person makes or receives a proposal that would transfer the person's obligations under this chapter or IC 6-2.5 to another person.

Sec. 5. The amount of a state gross retail tax rebate awarded under this chapter for a particular calendar year is equal to the amount determined under STEP SIX of the following formula:

STEP ONE: Determine the total amount of the person's qualified project costs for the tourism attraction project that is the subject of an agreement described in section 4 of this chapter.

STEP TWO: Multiply the STEP ONE amount by twenty-five percent (25%).

STEP THREE: Divide the STEP TWO result by ten (10).

STEP FOUR: Determine the total amount of state gross retail taxes remitted by all retail merchants making retail transactions at the tourism attraction in the preceding calendar year.

STEP FIVE: Multiply the STEP FOUR amount by twenty-five percent (25%).

STEP SIX: Determine the lesser of:

(A) the STEP THREE quotient; or

(B) the STEP FIVE result.

Sec. 6. (a) A person is first eligible to receive a state gross retail tax rebate awarded under this chapter following the first full calendar year of operations at the tourism attraction that is the subject of an agreement entered into under section 4 of this chapter.

(b) A person may not receive a state gross retail tax rebate under this chapter for more than ten (10) calendar years.

(c) IC 6-2.5-6-17 applies to all state gross retail tax rebates awarded under this chapter.

Sec. 7. If the department of state revenue or the office

C o p y

determines that a person that has received a state gross retail tax rebate under this chapter is not entitled to the rebate because of the person's:

(1) noncompliance with the requirements of the person's state gross retail tax rebate agreement; or

(2) failure to comply with all the provisions of this chapter;

the department or the office shall, after giving the person an opportunity to explain the noncompliance, impose an assessment on the person in an amount that may not exceed the sum of any previously allowed state gross retail tax rebates under this chapter together with interest and penalties required or permitted by law.

Sec. 8. (a) On or before July 1, the director shall annually submit a report to the lieutenant governor on the state gross retail tax rebate program under this chapter. The report must include:

(1) information on the number of agreements that were entered into under this chapter during the preceding calendar year;

(2) a description of the project that is the subject of each agreement;

(3) an update on the status of projects under agreements entered into before the preceding calendar year;

(4) an assessment of the effectiveness of the program in creating new jobs in Indiana;

(5) an assessment of the effect of the program on state tax revenues; and

(6) the sum of the state gross retail tax rebates awarded under this chapter in the preceding calendar year.

(b) A copy of the report required under subsection (a) shall be transmitted in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

SECTION 7. IC 6-2.5-6-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17. (a) To receive a state gross retail tax rebate awarded under IC 5-29-5 for a particular calendar year, a person must:**

(1) file a claim:

(A) with the department;

(B) on a form prescribed by the department; and

(C) on or before April 15 of the immediately succeeding calendar year; and

(2) submit to the department proof of all information that the

C o p y

department determines is necessary for the calculation of the rebate amount under IC 5-29-5-5.

(b) If the department receives a claim for a rebate under this section, the department shall consider the claim and may hold a hearing on the claim to obtain and consider additional evidence. After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the rebate allowed and containing a statement of the reasons for any part of the rebate that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the department allows the full amount of the rebate claim, a warrant for the payment of the claim is sufficient notice of the decision.

(c) If the person disagrees with any part of the department's decision, the person may appeal the decision. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a rebate appeal suit if:

(1) the appeal is filed more than three (3) years after the date the claim for a rebate is filed with the department;

(2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or

(3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for a rebate with the department.

(d) The tax court shall hear the appeal de novo and without a jury and, after the hearing, may order or deny any part of the appealed rebate. The court may assess the court costs in any manner that it feels is equitable.

(e) An amount sufficient to pay the state gross retail tax rebates provided under this section is annually appropriated from the state general fund to the department.

SECTION 8. IC 6-8.1-9-3, AS AMENDED BY P.L.111-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** This chapter does not apply to refund claims made for gasoline taxes under IC 6-6-1.1, special fuel taxes under IC 6-6-2.5, or the motor vehicle excise tax (excluding interest and penalties) under IC 6-6-5.

(b) This chapter does not apply to a state gross retail tax rebate awarded under IC 5-29-5.

SECTION 9. IC 6-9-2-2, AS AMENDED BY P.L.168-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The revenue received by the county

C o p y

treasurer under this chapter shall be allocated to the Lake County convention and visitor bureau, Indiana University-Northwest, Purdue University-Calumet, municipal public safety departments, municipal physical and economic development divisions, and the cities and towns in the county as provided in this section. Subsections (b) through (g) do not apply to the distribution of revenue received under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county.

(b) The Lake County convention and visitor bureau shall establish a convention, tourism, and visitor promotion fund (referred to in this chapter as the "promotion fund"). The county treasurer shall transfer to the Lake County convention and visitor bureau for deposit in the promotion fund thirty-five percent (35%) of the first one million two hundred thousand dollars ($1,200,000) of revenue received from the tax imposed under this chapter in each year. The promotion fund consists of:

(1) money in the promotion fund on June 30, 2005;

(2) revenue deposited in the promotion fund under this subsection after June 30, 2005; and

(3) investment income earned on the promotion fund's assets.

Money in the ~~promotion fund~~ **bureau's funds** may be expended ~~only~~ to promote and encourage conventions, trade shows, special events, recreation, and visitors. ~~within the county.~~ Money may be paid from the promotion fund by claim in the same manner as municipalities may pay claims under IC 5-11-10-1.6.

(c) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received from the tax imposed under this chapter in each year. During each year, the county treasurer shall transfer to Indiana University-Northwest forty-four and thirty-three hundredths percent (44.33%) of the revenue received under this chapter for that year to be used as follows:

(1) Seventy-five percent (75%) of the revenue received under this subsection may be used only for the university's medical education programs.

(2) Twenty-five percent (25%) of the revenue received under this subsection may be used only for the university's allied health education programs.

~~The amount for each year shall be transferred in four (4) approximately equal quarterly installments.~~

(d) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received from the tax

C o p y

imposed under this chapter in each year. During each year, the county treasurer shall allocate among the cities and towns throughout the county nine percent (9%) of the revenue received under this chapter for that year ~~The amount of each city's or town's allocation is~~ as follows:

(1) Ten percent (10%) of the revenue covered by this subsection shall be ~~transferred~~ **distributed** to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Ten percent (10%) of the revenue covered by this subsection shall be ~~transferred~~ **distributed** to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) Ten percent (10%) of the revenue covered by this subsection shall be ~~transferred~~ **distributed** to cities having a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

(4) ~~Five~~ **Seventy** percent ~~(5%)~~ **(70%)** of the revenue covered by this subsection shall be ~~transferred~~ **distributed in equal amounts** to each town and each city not receiving a ~~transfer~~ **distribution** under subdivisions (1) through (3).

The money ~~transferred~~ **distributed** under this subsection may be used only for **tourism and** economic development projects. The county treasurer shall make the ~~transfers~~ **distributions** on or before December 1 of each year.

(e) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received from the tax imposed under this chapter in each year. During each year, the county treasurer shall transfer to Purdue University-Calumet nine percent (9%) of the revenue received under this chapter for that year. The money received by Purdue University-Calumet may be used by the university only for nursing education programs.

(f) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received from the tax imposed under this chapter in each year. During each year, the county treasurer shall transfer two and sixty-seven hundredths percent (2.67%) of the revenue received under this chapter for that year to the following cities:

(1) Fifty percent (50%) of the revenue covered by this subsection shall be transferred to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Fifty percent (50%) of the revenue covered by this subsection

C o p y

shall be transferred to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

Money transferred under this subsection may be used only for convention facilities located within the city. In addition, the money may be used only for facility marketing, sales, and public relations programs. Money transferred under this subsection may not be used for salaries, facility operating costs, or capital expenditures related to the convention facilities. The county treasurer shall make the transfers on or before December 1 of each year.

(g) This subsection applies to the revenue received from the tax imposed under this chapter in each year that exceeds one million two hundred thousand dollars ($1,200,000). During each year, the county treasurer shall distribute money in the promotion fund as follows:

(1) Eighty-five percent (85%) of the revenue covered by this subsection shall be deposited in the convention, tourism, and visitor promotion fund. The money deposited in the fund under this subdivision may be used only for the purposes for which other money in the fund may be used.

(2) Five percent (5%) of the revenue covered by this subsection shall be transferred to Purdue University-Calumet. The money received by Purdue University-Calumet under this subdivision may be used by the university only for nursing education programs.

(3) Five percent (5%) of the revenue covered by this subsection shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's medical education programs.

(4) Five percent (5%) of the revenue covered by this subsection shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's allied health education programs.

~~(h) The county treasurer may estimate the amount that will be received under this chapter for the year to determine the amount to be transferred under this section.~~

~~(i)~~ **(h)** This subsection applies only to the distribution of revenue received from the tax imposed under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county. During each year, the county treasurer shall transfer:

C o p y

(1) seventy-five percent (75%) of the revenues under this subsection to the department of public safety; and

(2) twenty-five percent (25%) of the revenues under this subsection to the division of physical and economic development;

of the largest city of the county.

~~(j)~~ **(i)** The Lake County convention and visitor bureau shall assist the county treasurer, as needed, with the calculation of the amounts that must be deposited and transferred under this section.

SECTION 10. IC 6-9-2-3, AS AMENDED BY P.L.168-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) For purposes of this section, the size of a political subdivision is based on the population determined in the last federal decennial census.

(b) A convention and visitor bureau having ~~fifteen (15)~~ **eleven (11)** members is created to promote the development and growth of the convention, tourism, and visitor industry. ~~in the county.~~

(c) The executives (as defined by IC 36-1-2-5) of the eight (8) largest municipalities (as defined by IC 36-1-2-11) in the county shall each appoint one (1) member to the bureau. The legislative body (as defined in IC 36-1-2-9) of the two (2) largest municipalities in the county shall each appoint one (1) member to the bureau.

~~(d) The county council shall appoint two (2) members to the bureau. One (1) of the appointees must be a resident of the largest township in the county, and one (1) of the appointees must be a resident of the second largest township in the county.~~

~~(e) The county commissioners shall appoint two (2) members to the bureau. Each appointee must be a resident of the fifth, sixth, seventh, eighth, ninth, tenth, or eleventh largest township in the county. These appointees must be residents of different townships.~~

~~(f)~~ **(d)** The lieutenant governor shall appoint one (1) member to the bureau.

~~(g) One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the highest number of votes in the county in the last preceding election for the office of secretary of state. One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the second highest number of votes in the county in the election for that office.~~ **(e)** No appointee under this section may hold **a school board office,** an elected **office,** or **another** appointed ~~political~~ **local** office while ~~he serves~~ **serving** on the bureau.

~~(h)~~ **(f)** In making appointments under this section, the appointing

C o p y

authority shall give sole consideration to individuals ~~who shall be knowledgeable and interested~~ **employed as executives or managers** in at least one (1) of the following businesses in the county:

(1) Hotel.
(2) Motel.
(3) Restaurant.
(4) Travel.
(5) Transportation.
(6) Convention.
(7) Trade show.
(8) A riverboat licensed under IC 4-33.

However, an individual employed by a riverboat may not be appointed under this section unless the individual holds a Level 1 occupational license issued under IC 4-33-8.

~~(i)~~ **(g)** All terms of office of bureau members begin on July 1. Members of the bureau serve terms of three (3) years. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an appointment is not made before July 16 or a vacancy is not filled within thirty (30) days, the member appointed by the lieutenant governor under subsection ~~(f)~~ **(d)** shall appoint a qualified person.

~~(j)~~ **(h)** A member of the bureau may be removed for **misfeasance, malfeasance, neglect, absence, or** cause by ~~the member's appointing authority.~~ **a majority vote of the bureau.**

~~(k)~~ **(i)** Members of the bureau may not receive a salary. However, bureau members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

~~(l)~~ **(j)** Each bureau member, before entering the member's duties, shall take an oath of office in the usual form, to be endorsed upon the member's certificate of appointment and promptly filed with the clerk of the circuit court of the county.

~~(m)~~ **(k)** The bureau shall meet after July 1 each year for the purpose of organization. The bureau shall elect a chairman from its members. The bureau shall also elect from its members a vice chairman, a secretary, and a treasurer. The members serving in those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve until their successors are elected and qualified. A majority of the bureau constitutes a quorum, and the concurrence of a majority of those present is necessary to authorize any action.

~~(n)~~ **(l)** If the county and one (1) or more adjoining counties desire to establish a joint bureau, the counties shall enter into an agreement

C o p y

under IC 36-1-7. ~~In the absence of such an agreement, the bureau may not expend funds to promote activities in any other county.~~

SECTION 11. IC 6-9-2-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.5. (a) As used in this section, "felony" means a conviction in any jurisdiction for which the convicted person might have been imprisoned for at least one (1) year. However, the term does not include a conviction:**

(1) for which the person has been pardoned; or

(2) that has been:

(A) reversed;

(B) vacated;

(C) set aside; or

(D) not entered because the trial court did not accept the person's guilty plea.

(b) A person is disqualified from assuming or being appointed to a membership on the bureau if in a:

(1) jury trial, a jury publicly announces a verdict against the person for a felony;

(2) bench trial, the court publicly announces a verdict against the person for a felony; or

(3) guilty plea hearing, the person pleads guilty or nolo contendere to a felony.

(c) The reduction of a felony to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5 does not affect the operation of subsection (b).

SECTION 12. IC 6-9-2-4, AS AMENDED BY P.L.168-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The bureau may:

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

(2) sue and be sued;

(3) enter into contracts and agreements;

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

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

(6) after its approval of a proposal, transfer money from the promotion fund or from the alternate revenue fund to any Indiana nonprofit corporation to promote and encourage conventions, trade shows, visitors, or special events in the county;

C o p y

(7) require financial or other reports from any corporation that receives funds under this chapter;

(8) enter into leases under IC 36-1-10 for the construction, acquisition, and equipping of a visitor center; and

(9) exercise the power of eminent domain to acquire property to promote and encourage conventions, trade shows, special events, recreation, and visitors. ~~within the county.~~

(b) All expenses of the bureau shall be paid from ~~the promotion fund.~~ **funds established by the bureau.** Before September 1 of each year, the bureau shall prepare a budget for expenditures ~~from the promotion fund~~ during the following year, taking into consideration the recommendations made by a corporation qualified under subsection (a)(6). **A budget prepared under this section must be submitted to the department of local government finance and placed on file with the county auditor.**

(c) All money in the ~~promotion fund~~ **bureau's funds** shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money in the ~~promotion fund is~~ **bureau's funds are** subject to audit and supervision by the state board of accounts.

SECTION 13. IC 6-9-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The legislative body of a county that imposes a tax under section 1 of this chapter shall annually prepare a report concerning the disbursement and use of the money collected under this chapter **during the preceding calendar year.** The report shall be prepared before ~~December~~ **March** 15 each year and shall be made available to the public.

(b) If in any year an entity receiving money under this chapter fails to provide the county legislative body with sufficient information, as reasonably requested by the county legislative body:

(1) for the county legislative body to comply with this section; and

(2) before the date specified by the county legislative body;

the county legislative body may direct the county treasurer by resolution to stop deposits and transfers under this chapter to the entity. When an entity provides the information that is the subject of the resolution, the county legislative body shall as soon as practicable direct the county treasurer, by resolution, to resume making deposits and transfers to the entity, including any deposits and transfers that would otherwise have been made to the entity during the time that deposits and transfers were stopped under this subsection. A copy of a resolution adopted under this subsection must be distributed to the

C o p y

county treasurer and the entity that is the subject of the resolution within ten (10) business days after the resolution is adopted. The county treasurer shall comply with a resolution adopted under this subsection.

SECTION 14. IC 6-9-2-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11. The bureau created under section 3 of this chapter is a political subdivision for purposes of IC 34-13-3.**

SECTION 15. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "bureau" refers to the Lake County convention and visitor bureau created by IC 6-9-2-3.**

(b) Notwithstanding any other law, the term of office of a member of the bureau who:

(1) is serving on June 30, 2007; and

(2) was appointed under IC 6-9-2-3(d) or IC 6-9-2-3(e), both as in effect on January 1, 2007;

terminates July 1, 2007.

(c) This SECTION expires July 1, 2008.

SECTION 16. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "bureau" refers to the Lake County convention and visitor bureau created by IC 6-9-2-3.**

(b) This SECTION applies to a member of the bureau who was appointed by the executive of either of the following municipalities located in Lake County:

(1) A city having a population of more than twenty-five thousand (25,000) but less than twenty-seven thousand (27,000).

(2) A town having a population of more than twenty-three thousand (23,000) but less than twenty-four thousand (24,000).

(c) Notwithstanding any other law, the term of office of a member of the bureau who is:

(1) described in subsection (b); and

(2) serving on June 30, 2007;

does not terminate on July 1, 2007, but is extended until July 1, 2008.

(d) This SECTION expires July 1, 2009.

SECTION 17. **An emergency is declared for this act.**

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Small Business and Economic Development, to which was referred House Bill 1166, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 6 and 7, begin a new line block indented and insert:

"**(5) An amusement park.**

(6) A water park.".

Page 7, after line 37, begin a new paragraph and insert:

"SECTION 9. IC 6-9-2-2, AS AMENDED BY P.L.168-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The revenue received by the county treasurer under this chapter shall be allocated to the Lake County convention and visitor bureau, Indiana University-Northwest, Purdue University-Calumet, municipal public safety departments, municipal physical and economic development divisions, and the cities and towns in the county as provided in this section. Subsections (b) through (g) do not apply to the distribution of revenue received under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county.

(b) The Lake County convention and visitor bureau shall establish a convention, tourism, and visitor promotion fund (referred to in this chapter as the "promotion fund"). The county treasurer shall transfer to the Lake County convention and visitor bureau for deposit in the promotion fund thirty-five percent (35%) of the first one million two hundred thousand dollars ($1,200,000) of revenue received from the tax imposed under this chapter in each year. The promotion fund consists of:

(1) money in the promotion fund on June 30, 2005;

(2) revenue deposited in the promotion fund under this subsection after June 30, 2005; and

(3) investment income earned on the promotion fund's assets.

Money in the ~~promotion fund~~ **bureau's funds** may be expended ~~only~~ to promote and encourage conventions, trade shows, special events, recreation, and visitors. ~~within the county.~~ Money may be paid from the promotion fund by claim in the same manner as municipalities may pay claims under IC 5-11-10-1.6.

(c) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received from the tax imposed under this chapter in each year. During each year, the county

C o p y

treasurer shall transfer to Indiana University-Northwest forty-four and thirty-three hundredths percent (44.33%) of the revenue received under this chapter for that year to be used as follows:

(1) Seventy-five percent (75%) of the revenue received under this subsection may be used only for the university's medical education programs.

(2) Twenty-five percent (25%) of the revenue received under this subsection may be used only for the university's allied health education programs.

~~The amount for each year shall be transferred in four (4) approximately equal quarterly installments.~~

(d) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received from the tax imposed under this chapter in each year. During each year, the county treasurer shall allocate among the cities and towns throughout the county nine percent (9%) of the revenue received under this chapter for that year ~~The amount of each city's or town's allocation is~~ as follows:

(1) Ten percent (10%) of the revenue covered by this subsection shall be ~~transferred~~ **distributed** to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Ten percent (10%) of the revenue covered by this subsection shall be ~~transferred~~ **distributed** to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) Ten percent (10%) of the revenue covered by this subsection shall be ~~transferred~~ **distributed** to cities having a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

(4) ~~Five~~ **Seventy** percent ~~(5%)~~ **(70%)** of the revenue covered by this subsection shall be ~~transferred~~ **distributed in equal amounts** to each town and each city not receiving a ~~transfer~~ **distribution** under subdivisions (1) through (3).

The money ~~transferred~~ **distributed** under this subsection may be used only for **tourism and** economic development projects. The county treasurer shall make the ~~transfers~~ **distributions** on or before December 1 of each year.

(e) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received from the tax imposed under this chapter in each year. During each year, the county treasurer shall transfer to Purdue University-Calumet nine percent (9%) of the revenue received under this chapter for that year. The money

C o p y

received by Purdue University-Calumet may be used by the university only for nursing education programs.

(f) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received from the tax imposed under this chapter in each year. During each year, the county treasurer shall transfer two and sixty-seven hundredths percent (2.67%) of the revenue received under this chapter for that year to the following cities:

(1) Fifty percent (50%) of the revenue covered by this subsection shall be transferred to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Fifty percent (50%) of the revenue covered by this subsection shall be transferred to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

Money transferred under this subsection may be used only for convention facilities located within the city. In addition, the money may be used only for facility marketing, sales, and public relations programs. Money transferred under this subsection may not be used for salaries, facility operating costs, or capital expenditures related to the convention facilities. The county treasurer shall make the transfers on or before December 1 of each year.

(g) This subsection applies to the revenue received from the tax imposed under this chapter in each year that exceeds one million two hundred thousand dollars ($1,200,000). During each year, the county treasurer shall distribute money in the promotion fund as follows:

(1) Eighty-five percent (85%) of the revenue covered by this subsection shall be deposited in the convention, tourism, and visitor promotion fund. The money deposited in the fund under this subdivision may be used only for the purposes for which other money in the fund may be used.

(2) Five percent (5%) of the revenue covered by this subsection shall be transferred to Purdue University-Calumet. The money received by Purdue University-Calumet under this subdivision may be used by the university only for nursing education programs.

(3) Five percent (5%) of the revenue covered by this subsection shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's medical education programs.

(4) Five percent (5%) of the revenue covered by this subsection

C o p y

shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's allied health education programs.

~~(h) The county treasurer may estimate the amount that will be received under this chapter for the year to determine the amount to be transferred under this section.~~

~~(i)~~ **(h)** This subsection applies only to the distribution of revenue received from the tax imposed under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county. During each year, the county treasurer shall transfer:

(1) seventy-five percent (75%) of the revenues under this subsection to the department of public safety; and

(2) twenty-five percent (25%) of the revenues under this subsection to the division of physical and economic development;

of the largest city of the county.

~~(j)~~ **(i)** The Lake County convention and visitor bureau shall assist the county treasurer, as needed, with the calculation of the amounts that must be deposited and transferred under this section.

SECTION 10. IC 6-9-2-3, AS AMENDED BY P.L.168-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) For purposes of this section, the size of a political subdivision is based on the population determined in the last federal decennial census.

(b) A convention and visitor bureau having ~~fifteen (15)~~ **eleven (11)** members is created to promote the development and growth of the convention, tourism, and visitor industry. ~~in the county.~~

(c) The executives (as defined by IC 36-1-2-5) of the eight (8) largest municipalities (as defined by IC 36-1-2-11) in the county shall each appoint one (1) member to the bureau. The legislative body (as defined in IC 36-1-2-9) of the two (2) largest municipalities in the county shall each appoint one (1) member to the bureau.

~~(d) The county council shall appoint two (2) members to the bureau. One (1) of the appointees must be a resident of the largest township in the county, and one (1) of the appointees must be a resident of the second largest township in the county.~~

~~(e) The county commissioners shall appoint two (2) members to the bureau. Each appointee must be a resident of the fifth, sixth, seventh, eighth, ninth, tenth, or eleventh largest township in the county. These appointees must be residents of different townships.~~

C o p y

~~(f)~~ **(d)** The lieutenant governor shall appoint one (1) member to the bureau.

~~(g) One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the highest number of votes in the county in the last preceding election for the office of secretary of state. One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the second highest number of votes in the county in the election for that office.~~ **(e)** No appointee under this section may hold **a school board office,** an elected **office,** or **another** appointed ~~political~~ **local** office while ~~he serves~~ **serving** on the bureau.

~~(h)~~ **(f)** In making appointments under this section, the appointing authority shall give sole consideration to individuals ~~who shall be knowledgeable and interested~~ **employed as executives or managers** in at least one (1) of the following businesses in the county:

(1) Hotel.
(2) Motel.
(3) Restaurant.
(4) Travel.
(5) Transportation.
(6) Convention.
(7) Trade show.
(8) A riverboat licensed under IC 4-33.

However, an individual employed by a riverboat may not be appointed under this section unless the individual holds a Level 1 occupational license issued under IC 4-33-8.

~~(i)~~ **(g)** All terms of office of bureau members begin on July 1. Members of the bureau serve terms of three (3) years. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an appointment is not made before July 16 or a vacancy is not filled within thirty (30) days, the member appointed by the lieutenant governor under subsection ~~(f)~~ **(d)** shall appoint a qualified person.

~~(j)~~ **(h)** A member of the bureau may be removed for **misfeasance, malfeasance, neglect, absence, or** cause by ~~the member's appointing authority.~~ **a majority vote of the bureau.**

~~(k)~~ **(i)** Members of the bureau may not receive a salary. However, bureau members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

~~(l)~~ **(j)** Each bureau member, before entering the member's duties,

C o p y

shall take an oath of office in the usual form, to be endorsed upon the member's certificate of appointment and promptly filed with the clerk of the circuit court of the county.

~~(m)~~ **(k)** The bureau shall meet after July 1 each year for the purpose of organization. The bureau shall elect a chairman from its members. The bureau shall also elect from its members a vice chairman, a secretary, and a treasurer. The members serving in those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve until their successors are elected and qualified. A majority of the bureau constitutes a quorum, and the concurrence of a majority of those present is necessary to authorize any action.

~~(n)~~ **(l)** If the county and one (1) or more adjoining counties desire to establish a joint bureau, the counties shall enter into an agreement under IC 36-1-7. ~~In the absence of such an agreement, the bureau may not expend funds to promote activities in any other county.~~

SECTION 11. IC 6-9-2-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.5. (a) As used in this section, "felony" means a conviction in any jurisdiction for which the convicted person might have been imprisoned for at least one (1) year. However, the term does not include a conviction:**

(1) for which the person has been pardoned; or

(2) that has been:

(A) reversed;

(B) vacated;

(C) set aside; or

(D) not entered because the trial court did not accept the person's guilty plea.

(b) A person is disqualified from assuming or being appointed to a membership on the bureau if in a:

(1) jury trial, a jury publicly announces a verdict against the person for a felony;

(2) bench trial, the court publicly announces a verdict against the person for a felony; or

(3) guilty plea hearing, the person pleads guilty or nolo contendere to a felony.

(c) The reduction of a felony to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5 does not affect the operation of subsection (b).

SECTION 12. IC 6-9-2-4, AS AMENDED BY P.L.168-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The bureau may:

C o p y

(1) accept and use gifts, grants, and contributions from any public or private source, under terms and conditions that the bureau considers necessary and desirable;
(2) sue and be sued;
(3) enter into contracts and agreements;
(4) make rules necessary for the conduct of its business and the accomplishment of its purposes;
(5) receive and approve, alter, or reject requests and proposals for funding by corporations qualified under subdivision (6);
(6) after its approval of a proposal, transfer money from the promotion fund or from the alternate revenue fund to any Indiana nonprofit corporation to promote and encourage conventions, trade shows, visitors, or special events in the county;
(7) require financial or other reports from any corporation that receives funds under this chapter;
(8) enter into leases under IC 36-1-10 for the construction, acquisition, and equipping of a visitor center; and
(9) exercise the power of eminent domain to acquire property to promote and encourage conventions, trade shows, special events, recreation, and visitors. ~~within the county.~~

(b) All expenses of the bureau shall be paid from ~~the promotion fund.~~ **funds established by the bureau.** Before September 1 of each year, the bureau shall prepare a budget for expenditures ~~from the promotion fund~~ during the following year, taking into consideration the recommendations made by a corporation qualified under subsection (a)(6). **A budget prepared under this section must be submitted to the department of local government finance and placed on file with the county auditor.**

(c) All money in the ~~promotion fund~~ **bureau's funds** shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money in the ~~promotion fund is~~ **bureau's funds are** subject to audit and supervision by the state board of accounts.

SECTION 13. IC 6-9-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The legislative body of a county that imposes a tax under section 1 of this chapter shall annually prepare a report concerning the disbursement and use of the money collected under this chapter **during the preceding calendar year.** The report shall be prepared before ~~December~~ **March** 15 each year and shall be made available to the public.

(b) If in any year an entity receiving money under this chapter fails to provide the county legislative body with sufficient information, as

C o p y

reasonably requested by the county legislative body:

(1) for the county legislative body to comply with this section; and

(2) before the date specified by the county legislative body;

the county legislative body may direct the county treasurer by resolution to stop deposits and transfers under this chapter to the entity. When an entity provides the information that is the subject of the resolution, the county legislative body shall as soon as practicable direct the county treasurer, by resolution, to resume making deposits and transfers to the entity, including any deposits and transfers that would otherwise have been made to the entity during the time that deposits and transfers were stopped under this subsection. A copy of a resolution adopted under this subsection must be distributed to the county treasurer and the entity that is the subject of the resolution within ten (10) business days after the resolution is adopted. The county treasurer shall comply with a resolution adopted under this subsection.

SECTION 14. IC 6-9-2-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11. The bureau created under section 3 of this chapter is a political subdivision for purposes of IC 34-13-3.**

SECTION 15. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "bureau" refers to the Lake County convention and visitor bureau created by IC 6-9-2-3.**

(b) Notwithstanding any other law, the term of office of a member of the bureau who:

(1) is serving on June 30, 2007; and

(2) was appointed under IC 6-9-2-3(d) or IC 6-9-2-3(e), both as in effect on January 1, 2007;

terminates July 1, 2007.

(c) This SECTION expires July 1, 2008.

SECTION 16. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "bureau" refers to the Lake County convention and visitor bureau created by IC 6-9-2-3.**

(b) This SECTION applies to a member of the bureau who was appointed by the executive of either of the following municipalities located in Lake County:

(1) A city having a population of more than twenty-five thousand (25,000) but less than twenty-seven thousand (27,000).

(2) A town having a population of more than twenty-three thousand (23,000) but less than twenty-four thousand

C o p y

(24,000).

(c) Notwithstanding any other law, the term of office of a member of the bureau who is:

(1) described in subsection (b); and

(2) serving on June 30, 2007;

does not terminate on July 1, 2007, but is extended until July 1, 2008.

(d) This SECTION expires July 1, 2009.

SECTION 17. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1166 as introduced.)

ORENTLICHER, Chair

Committee Vote: yeas 10, nays 0.

C o p y