
HOUSE BILL No. 1388

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-10.5.

Synopsis: White County innkeeper's tax. Authorizes the county council of White County to increase the county's innkeeper's tax rate to not more than 5%. Provides that tax revenues from any increase must be used to promote conventions, tourism, and economic development in the county. Provides for the establishment of a county promotion fund for deposit of the tax revenues and a commission to administer the fund. Provides for the oversight of the commission.

Effective: July 1, 2011.

Lehe, Gutwein

January 18, 2011, read first time and referred to Committee on Ways and Means.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1388

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 6-9-10.5-1.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: **Sec. 1.5. As used in this chapter,**
4 **"commission" means a commission created under section 9 of this**
5 **chapter.**

6 SECTION 2. IC 6-9-10.5-6 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The fiscal body
8 of a county may levy a tax on every person engaged in the business of
9 renting or furnishing, for periods of less than thirty (30) days, any room
10 or rooms, lodgings, or accommodations in any:

- 11 (1) hotel;
- 12 (2) motel;
- 13 (3) inn;
- 14 (4) tourist cabin; or
- 15 (5) campground space;

16 located in the county.
17 (b) The tax may not exceed the rate of ~~three~~ **five** percent (~~3%~~) (**5%**)



1 on the gross retail income derived from lodging income only and is in
2 addition to the state gross retail tax imposed under IC 6-2.5.

3 (c) The county fiscal body may adopt an ordinance to require that
4 the tax be reported on forms approved by the county treasurer and that
5 the tax shall be paid monthly to the county treasurer. If such an
6 ordinance is adopted, the tax shall be paid to the county treasurer not
7 more than twenty (20) days after the end of the month the tax is
8 collected. If such an ordinance is not adopted, the tax shall be imposed,
9 paid, and collected in exactly the same manner as the state gross retail
10 tax is imposed, paid, and collected under IC 6-2.5.

11 (d) All of the provisions of IC 6-2.5 relating to rights, duties,
12 liabilities, procedures, penalties, definitions, exemptions, and
13 administration are applicable to the imposition and administration of
14 the tax imposed under this section except to the extent those provisions
15 are in conflict or inconsistent with the specific provisions of this
16 chapter or the requirements of the county treasurer. If the tax is paid to
17 the department of state revenue, the return to be filed for the payment
18 of the tax under this section may be either a separate return or may be
19 combined with the return filed for the payment of the state gross retail
20 tax as the department of state revenue may, by rule, determine.

21 (e) If the tax is paid to the department of state revenue, the taxes the
22 department of state revenue receives under this section during a month
23 shall be paid, by the end of the next succeeding month, to the county
24 treasurer upon warrants issued by the auditor of state.

25 SECTION 3. IC 6-9-10.5-7 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) If a tax is levied
27 under section 6 of this chapter, the county treasurer shall establish a
28 lake enhancement fund. **Except as provided in subsection (c) and**
29 **section 8 of this chapter,** the county treasurer shall deposit in this fund
30 all amounts received under section 6 of this chapter.

31 (b) Money in this fund may be expended only to enhance lakes
32 located in the county, including silt trap maintenance.

33 (c) **This subsection applies if the tax levied under section 6 of**
34 **this chapter is increased by an ordinance adopted by the county**
35 **fiscal body after June 30, 2011. The county treasurer shall deposit**
36 **in the lake enhancement fund:**

37 (1) **the amount received under section 6 of this chapter;**
38 **multiplied by**

39 (2) **a fraction, the numerator of which is three (3) and the**
40 **denominator of which is the product of:**

41 (A) **the tax rate in effect after the adoption of the**
42 **ordinance to increase the tax; multiplied by**

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(B) one hundred (100).

SECTION 4. IC 6-9-10.5-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 8. (a) If the tax levied under section 6 of this chapter is increased by an ordinance adopted by the county fiscal body after June 30, 2011, the county treasurer shall establish a county promotion fund. The county treasurer shall deposit in the county promotion fund the difference between:**

- (1) the amount received under section 6 of this chapter; minus**
- (2) the amount deposited in the lake enhancement fund under section 7(c) of this chapter.**

(b) In a county in which a commission has been established under section 9 of this chapter, the county auditor shall issue a warrant directing the county treasurer to transfer money from the county promotion fund to the commission's treasurer if the commission submits a written request for the transfer.

(c) Money in a county promotion fund, or money transferred from such a fund under subsection (b), may be expended only to promote and encourage conventions, visitors, tourism, and economic development within the county. Expenditures that may be made under this subsection include expenditures for advertising, promotional activities, trade shows, special events, and recreation, and expenditures that are authorized by IC 6-3.5-7-13.1 with respect to the county's economic development income tax fund.

SECTION 5. IC 6-9-10.5-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 9. (a) If the tax levied under section 6 of this chapter is increased by an ordinance of the county fiscal body, the county executive shall create a commission to promote:**

- (1) economic development; and**
- (2) the development and growth of the convention, visitor, and tourism industry;**

in the county.

(b) The composition and appointment of the membership of a commission created under subsection (a) must be as follows:

- (1) Subject to subdivision (2), the county executive shall determine the number of members of the commission.**
- (2) The commission must be composed of an odd number of members.**
- (3) A simple majority of the members must be:**
 - (A) engaged in the convention or tourism business;**
 - (B) involved in or promoting conventions, visitors, or**

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tourism; or

(C) involved in promoting economic development in the county.

(4) At least two (2) members must be engaged in the business of renting or furnishing rooms, lodging, or accommodations (as described in section 6 of this chapter) if at least two (2) such individuals are available and willing to serve on the commission.

(5) Not more than a simple majority of the members may be affiliated with the same political party.

(6) Each member must reside in the county.

(7) The executive of the largest municipality of the county shall appoint a number of members equal to:

(A) the total number of members of the commission; multiplied by

(B) a fraction:

(i) the numerator of which is equal to the population of the largest municipality in the county; and

(ii) the denominator of which is equal to the total population of the county;

rounded to the nearest whole number. The county executive shall determine who appoints the members of the commission not appointed by the executive of the largest municipality of the county.

(c) All terms of office of commission members begin on January 1. Initial appointments must be for staggered terms, with subsequent appointments for two (2) year terms. 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 initial appointment is not made by February 1 or a vacancy is not filled within thirty (30) days, after the vacancy occurs the commission shall appoint a member by majority vote.

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

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

(f) Each commission 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

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with the clerk of the circuit court of the county.

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

SECTION 6. IC 6-9-10.5-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) A commission created under section 9 of this chapter may:

- (1) accept and use gifts, grants, and contributions from any public or private source, under terms and conditions that the commission 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 described in subdivision (6);
- (6) after its approval of a proposal, transfer money, quarterly or less frequently, from the fund established under section 8(a) of this chapter, or from money transferred from that fund to the commission's treasurer under section 8(b) of this chapter, to any Indiana not-for-profit corporation to promote and encourage conventions, tourism, or economic development in the county; and
- (7) require financial or other reports from any corporation that receives funds under this chapter.

(b) All expenses of the commission shall be paid from the fund established under section 8(a) of this chapter or from money transferred from that fund to the commission's treasurer under section 8(b) of this chapter. The commission shall annually prepare a budget, taking into consideration the recommendations made by a corporation described in subsection (a)(6), and submit the budget to the county fiscal body for review and approval. An expenditure may not be made under this chapter unless the expenditure is in accordance with an appropriation made by the county fiscal body

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in the manner provided by law.

SECTION 7. IC 6-9-10.5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 11. All money coming into the possession of a commission created under section 9 of this chapter 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 coming into possession of the commission is subject to audit and supervision by the state board of accounts.**

SECTION 8. IC 6-9-10.5-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 12. (a) A member of a commission created under section 9 of this chapter who knowingly:**

- (1) approves the transfer of money to any person or corporation not qualified under law to receive the transfer; or**
- (2) approves a transfer for a purpose not permitted under law;**

commits a Class D felony.

(b) A person who receives a transfer of money under this chapter and knowingly uses the money for any purpose not permitted under this chapter commits a Class D felony.

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