

HOUSE BILL No. 1358

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-18-9; IC 6-9-30.

Synopsis: Scottsburg food and beverage tax. Authorizes Scott County to pledge innkeeper's tax revenue to pay obligations incurred by the city of Scottsburg for the construction of a regional conference center. Authorizes the city of Scottsburg to impose a food and beverage tax and dedicate the revenues to the construction of a regional conference center.

Effective: Upon passage.

Goodin

January 15, 2002, read first time and referred to Committee on Ways and Means.

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Second Regular Session 112th General Assembly (2002)

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 2001 General Assembly.

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HOUSE BILL No. 1358



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 6-9-18-9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 9. (a) This section applies to a county**
4 **having a population of more than twenty-two thousand five**
5 **hundred (22,500) but less than twenty-three thousand five hundred**
6 **(23,500).**
7 **(b) A county described in subsection (a):**
8 **(1) is presented with unique challenges and opportunities due**
9 **to the presence of major interstate transportation routes in**
10 **the county;**
11 **(2) desires to take advantage of the presence of the major**
12 **interstate transportation routes in the county to promote**
13 **tourism, conventions, and visitors in the county; and**
14 **(3) desires to assist a third class city located in the county in**
15 **the development of a regional conference center.**
16 **(c) In addition to the purposes specified in section 4 of this**
17 **chapter, revenues from the county's innkeeper's tax may be used**



1 for the financing, construction, including the costs of land
2 acquisition, demolition, site clearance and preparation, renovation,
3 improvement, and equipping of a regional conference center in a
4 third class city located in the county.

5 (d) The legislative body of the county may pledge innkeeper's
6 tax revenues received under this chapter to pay bonds issued, loans
7 obtained, and lease payments or other obligations incurred by or
8 on behalf of a third class city located in the county or a special
9 taxing district of the city, for the:

- 10 (1) financing;
- 11 (2) construction, including the costs of:
 - 12 (A) land acquisition;
 - 13 (B) demolition; and
 - 14 (C) site clearance and preparation;
- 15 (3) renovation;
- 16 (4) improvement; and
- 17 (5) equipping;

18 of a regional conference center in the city. A pledge under this
19 subsection is enforceable under IC 5-1-14-4.

20 SECTION 2. IC 6-9-30 IS ADDED TO THE INDIANA CODE AS
21 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
22 PASSAGE]:

23 **Chapter 30. Scottsburg Food and Beverage Tax**

24 **Sec. 1. (a) This chapter applies to a third class city located in a**
25 **county having a population of more than twenty-two thousand five**
26 **hundred (22,500) but less than twenty-three thousand five hundred**
27 **(23,500).**

28 **(b) A city described in subsection (a):**

- 29 **(1) is presented with unique challenges and opportunities due**
30 **to the city's proximity to major interstate transportation**
31 **routes; and**
- 32 **(2) desires to take advantage of the city's proximity to major**
33 **interstate transportation routes to promote economic**
34 **development, tourism, conventions, and visitors in the city.**

35 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
36 **article.**

37 **Sec. 3. (a) The legislative body of the city may adopt an**
38 **ordinance to impose an excise tax, known as the city food and**
39 **beverage tax, on transactions described in section 4 of this chapter.**

40 **(b) If a legislative body adopts an ordinance under subsection**
41 **(a), the legislative body shall immediately send a certified copy of**
42 **the ordinance to the department of state revenue.**

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1 (c) If a legislative body adopts an ordinance under subsection
 2 (a), the city food and beverage tax applies to transactions that
 3 occur after the last day of the month that succeeds the month in
 4 which the ordinance was adopted.

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

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

10 (2) in the city in which the tax is imposed; and

11 (3) by a retail merchant for consideration.

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

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

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

19 (3) sold by a street vendor.

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

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

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

38 Sec. 7. The amounts received from the tax imposed under this
 39 chapter shall be paid monthly by the treasurer of state to the city
 40 fiscal officer upon warrants issued by the auditor of state.

41 Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the
 42 city fiscal officer shall establish a food and beverage tax receipts

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fund.

(b) The city fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. (a) Except as provided in subsection (b), money in the fund shall be used by the city for the:

- (1) financing;**
- (2) construction, including the costs of:**
 - (A) land acquisition;**
 - (B) demolition; and**
 - (C) site clearance and preparation;**
- (3) renovation;**
- (4) improvement;**
- (5) equipping; and**
- (6) maintenance;**

of a regional conference center in the city.

(b) The city may issue bonds, enter into leases, or incur other obligations to:

- (1) pay any costs associated with the project described in subsection (a);**
- (2) reimburse the city or any nonprofit corporation for money advanced to pay those costs; or**
- (3) refund bonds issued or other obligations incurred under this chapter.**

(c) Bonds or other obligations issued under this section:

- (1) are payable solely from money provided in this chapter or other money legally available for that purpose; and**
- (2) may, in the discretion of the city, be sold at a negotiated sale at a price to be determined by the city or in accordance with IC 5-1-11 and IC 5-3-1.**

(d) Leases entered into under this section:

- (1) may be for a term not to exceed fifty (50) years;**
- (2) may provide for payments from revenues under this chapter, other revenues available to the city, or any combination of these sources;**
- (3) may provide that payments by the city to the lessor are required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;**
- (4) must be based upon the value of the facilities leased; and**
- (5) may not create a debt of the city for purposes of the**

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1 **Constitution of the State of Indiana.**

2 **(e) A lease may be entered into by the legislative body of the city**
 3 **only after a public hearing at which all interested parties are**
 4 **provided the opportunity to be heard. After the public hearing, the**
 5 **legislative body may approve the execution of the lease on behalf**
 6 **of the city only if the legislative body finds that the service to be**
 7 **provided throughout the life of the lease will serve the public**
 8 **purpose of the city and is in the best interests of the city's residents.**

9 **(f) Upon execution of the lease under this section, the city**
 10 **legislative body shall publish notice of the execution of the lease**
 11 **and the approval of the lease in accordance with IC 5-3-1.**

12 **(g) An action to contest the validity of the bonds issued or leases**
 13 **entered into under this section must be brought within thirty (30)**
 14 **days after the adoption of a bond ordinance or notice of the**
 15 **execution and approval of the lease, as the case may be.**

16 **(h) The legislative body of the city may pledge money in the**
 17 **fund to pay bonds issued, loans obtained, and lease payments or**
 18 **other obligations incurred by or on behalf of the city or a special**
 19 **taxing district in the city to provide the facilities described in**
 20 **subsection (a).**

21 **(i) A pledge under subsection (h) is enforceable under**
 22 **IC 5-1-14-4.**

23 **Sec. 10. With respect to any bonds, leases, loans, or obligations**
 24 **for which a pledge has been made under section 9 of this chapter,**
 25 **the general assembly covenants with the holders of the obligations**
 26 **that this chapter will not be repealed or amended in a manner that**
 27 **will adversely affect the imposition or collection of the tax imposed**
 28 **under this chapter if the payment of any of the obligations is**
 29 **outstanding.**

30 **SECTION 3. An emergency is declared for this act.**

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