
HOUSE BILL No. 1349

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-25.

Synopsis: Henry County food and beverage tax. Extends until December 31, 2015 (instead of December 31, 2004), Henry County's authority to pay for capital improvements with food and beverage tax revenues or to issue bonds or enter into leases or other obligations payable from food and beverage tax revenues. Provides that a member of the capital improvements committee may be reappointed upon the expiration of the member's term (current law requires the member to be reappointed). Specifies that the county may use the food and beverage tax revenues on a pay-as-you-go basis to undertake capital improvements and may pledge other available revenues to the payment of bonds payable from the food and beverage tax.

Effective: December 31, 2004 (retroactive).

Saunders, Pflum

January 13, 2005, read first time and referred to Committee on Ways and Means.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1349



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 6-9-25-1 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]: Sec. 1. (a)
- 3 This chapter applies to a county having a population of more than
- 4 forty-seven thousand (47,000) but less than fifty thousand (50,000).
- 5 (b) The county described in subsection (a) is unique because:
- 6 (1) governmental entities and nonprofit organizations in the
- 7 county have successfully undertaken cooperative efforts to
- 8 promote tourism and economic development; and
- 9 (2) several unique tourist attractions are located in the county,
- 10 including:
- 11 (A) the Indiana basketball hall of fame;
- 12 (B) the Wilbur Wright birthplace memorial; and
- 13 (C) a historic gymnasium.
- 14 (c) The presence of these unique attractions in the county has:
- 15 (1) increased the number of visitors to the county;
- 16 (2) generated increased sales at restaurants and other retail
- 17 establishments selling food in the county; and



1 (3) placed increased demands on all local governments for
2 services needed to support tourism and economic
3 development in the county.

4 (d) The use of food and beverage tax revenues arising in part
5 from the presence of the attractions identified in subsection (b)(2)
6 to support tourism and economic development in the county
7 permits governmental units in the county to diversify the revenue
8 sources for which local government improvements and services are
9 funded.

10 SECTION 2. IC 6-9-25-9.5 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]:
12 Sec. 9.5. (a) This section applies to revenues from the county food and
13 beverage tax received by the county after June 30, 1994.

14 (b) Money in the fund established under section 8 of this chapter
15 shall be used by the county for the financing, construction, renovation,
16 improvement, equipping, operation, or maintenance of the following
17 capital ~~expenditures~~ **improvements**:

- 18 (1) Sanitary sewers or wastewater treatment facilities that serve
- 19 economic development purposes.
- 20 (2) Drainage or flood control facilities that serve economic
- 21 development purposes.
- 22 (3) Road improvements used on an access road for an industrial
- 23 park that serve economic development purposes.
- 24 (4) A covered horse show arena.
- 25 (5) A historic birthplace memorial.
- 26 (6) A historic gymnasium and community center in a town in the
- 27 county with a population greater than two thousand (2,000) but
- 28 less than two thousand four hundred (2,400).
- 29 (7) Main street renovation and picnic and park areas in a town in
- 30 the county with a population greater than two thousand (2,000)
- 31 but less than two thousand four hundred (2,400).
- 32 (8) A community park and cultural center.
- 33 (9) Projects for which the county decides after July 1, 1994, to:
- 34 (A) **expend money in the fund established under section 8**
- 35 **of this chapter; or**
- 36 (B) issue bonds or other obligations or enter into leases under
- 37 section 11.5 of this chapter;
- 38 after the projects described in subdivisions (1) through (8) have
- 39 been funded.
- 40 (10) An ambulance.

41 Money in the fund may not be used for the operating costs of any of the
42 permissible projects listed in this section. In addition, the county may

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1 not initiate a project issue bonds or enter into leases or other
2 obligations under this chapter after December 31, ~~2004~~ 2015.

3 (c) The county capital improvements committee is established to
4 make recommendations to the county fiscal body concerning the use of
5 money in the fund established under section 8 of this chapter. The
6 capital improvements committee consists of the following members:

7 (1) One (1) resident of the county representing each of the three
8 (3) commissioner districts, appointed by the county executive.
9 Not more than two (2) of the members appointed under this
10 subdivision may be from the same political party.

11 (2) Two (2) residents of the county, appointed by the county fiscal
12 body. The two (2) appointees may not be from the same political
13 party. One (1) appointee under this subdivision must be a resident
14 of a town in the county with a population greater than two
15 thousand (2,000) but less than two thousand four hundred (2,400).
16 One (1) appointee under this subdivision must be a resident of a
17 town in the county with a population greater than two thousand
18 four hundred (2,400).

19 (3) Two (2) residents of the largest city in the county, appointed
20 by the municipal executive. The two (2) appointees under this
21 subdivision may not be from the same political party. One (1)
22 appointee must be interested in economic development.

23 (4) Two (2) residents of the largest city in the county, appointed
24 by the municipal fiscal body. The two (2) appointees under this
25 subdivision may not be from the same political party. One (1)
26 appointee must be interested in tourism.

27 (d) Except as provided in subsection (e), the term of a member
28 appointed to the capital improvements committee under subsection (c)
29 is four (4) years.

30 (e) The initial terms of office for the members appointed to the
31 county capital improvements committee under subsection (c) are as
32 follows:

33 (1) Of the members appointed under subsection (c)(1), one (1)
34 member shall be appointed for a term of two (2) years, one (1)
35 member shall be appointed for three (3) years, and one (1)
36 member shall be appointed for four (4) years.

37 (2) Of the members appointed under subsection (c)(2), one (1)
38 member shall be appointed for two (2) years and one (1) member
39 shall be appointed for three (3) years.

40 (3) Of the members appointed under subsection (c)(3), one (1)
41 member shall be appointed for two (2) years and one (1) member
42 shall be appointed for three (3) years.

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1 (4) Of the members appointed under subsection (c)(4), one (1)
2 member shall be appointed for three (3) years and one (1)
3 member shall be appointed for four (4) years.

4 (f) At the expiration of a term under subsection (e), the member
5 whose term expired ~~shall~~ **may** be reappointed to the county capital
6 improvements committee to fill the vacancy caused by the expiration.

7 (g) The capital improvements committee is abolished on January 1,
8 ~~2005~~: **2016**.

9 SECTION 3. IC 6-9-25-10.5 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]:

11 Sec. 10.5. (a) The county food and beverage tax council is established
12 in the county. The membership of the county food and beverage tax
13 council consists of the fiscal body of the county and the fiscal body of
14 each municipality that lies either partly or entirely within the county.

15 (b) The county food and beverage tax council has a total of one
16 hundred (100) votes. Every member of the county food and beverage
17 tax council is allocated a percentage of the total one hundred (100)
18 votes that may be cast. The percentage that a municipality in the county
19 is allocated for a year equals the same percentage that the population
20 of the municipality bears to the population of the county. The
21 percentage that the county is allocated for a year equals the same
22 percentage that the population of all areas of the county not located in
23 a municipality bears to the population of the county. In the case of a
24 municipality that lies partly within the county, the allocation shall be
25 based on the population of that portion of the municipality that lies
26 within the county.

27 (c) Before January 2 of each year, the county auditor shall certify to
28 each member of the food and beverage tax council the number of votes,
29 rounded to the nearest one-hundredth (0.01), the member has for that
30 year.

31 (d) The food and beverage tax imposed under this chapter remains
32 in effect until the county food and beverage tax council adopts an
33 ordinance to rescind the tax.

34 (e) An ordinance to rescind the food and beverage tax takes effect
35 December 31 of the year in which the ordinance is adopted.

36 (f) The county food and beverage tax council may not rescind the
37 food and beverage tax if there are bonds outstanding or leases or other
38 obligations payable under this chapter.

39 (g) The county food and beverage tax council is abolished on
40 January 1, ~~2005~~: **2016**.

41 SECTION 4. IC 6-9-25-11.5 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]:

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1 Sec. 11.5. (a) Until January 1, ~~2005~~, **2016**, the county may:

2 **(1) use money in the fund established under section 8 of this**
 3 **chapter to pay all or part of the costs associated with the**
 4 **facilities described in section 9.5 of this chapter;**

5 ~~(2)~~ (2) issue bonds, enter into leases, or incur other obligations to ~~(+)~~
 6 pay any costs associated with the facilities described in section
 7 9.5 of this chapter;

8 ~~(2)~~ **(3)** reimburse the county or any nonprofit corporation for any
 9 money advanced to pay those costs; or

10 ~~(3)~~ **(4)** refund bonds issued or other obligations incurred under
 11 this chapter.

12 (b) Bonds or other obligations issued under this section:

13 (1) are payable ~~solely~~ from money provided in this chapter, **any**
 14 **other revenues available to the county, or any combination of**
 15 **these sources, in accordance with a pledge made under**
 16 **IC 5-1-14-4;**

17 (2) must be issued in the manner prescribed by IC 36-2-6-18
 18 through IC 36-2-6-20; and

19 (3) may, in the discretion of the county, be sold at a negotiated
 20 sale at a price to be determined by the county or in accordance
 21 with IC 5-1-11 and IC 5-3-1.

22 (c) Leases entered into under this section:

23 (1) may be for a term not to exceed fifty (50) years;

24 (2) may provide for payments from revenues under this chapter,
 25 any other revenues available to the county, or any combination of
 26 these sources;

27 (3) may provide that payments by the county to the lessor are
 28 required only to the extent and only for the time that the lessor is
 29 able to provide the leased facilities in accordance with the lease;

30 (4) must be based upon the value of the facilities leased; and

31 (5) may not create a debt of the county for purposes of the
 32 Constitution of the State of Indiana.

33 (d) A lease may be entered into by the county executive only after
 34 a public hearing at which all interested parties are provided the
 35 opportunity to be heard. After the public hearing, the executive may
 36 approve the execution of the lease on behalf of the county only if the
 37 executive finds that the service to be provided throughout the life of the
 38 lease will serve the public purpose of the county and is in the best
 39 interests of its residents. A lease approved by the executive must also
 40 be approved by an ordinance of the county fiscal body.

41 (e) Upon execution of a lease under this section, and after approval
 42 of the lease by the county fiscal body, the county executive shall

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1 publish notice of the execution of the lease and the approval of the
2 lease in accordance with IC 5-3-1.

3 (f) An action to contest the validity of bonds issued or leases entered
4 into under this section must be brought within thirty (30) days after the
5 adoption of a bond ordinance or notice of the execution and approval
6 of the lease, as the case may be.

7 SECTION 5. **An emergency is declared for this act.**

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