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**FISCAL IMPACT STATEMENT**

**LS 6778**

**BILL NUMBER:** HB 1166

**NOTE PREPARED:** Mar 13, 2007

**BILL AMENDED:** Mar 13, 2007

**SUBJECT:** Sales Tax Rebate for Developing a Tourist Site.

**FIRST AUTHOR:** Rep. Cochran

**FIRST SPONSOR:** Sen. C. Lawson

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Sales Tax Rebate:* The bill 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. It establishes the criteria for awarding rebates. It also establishes procedures for claiming rebates. The bill appropriates money to the Department of State Revenue for the payment of rebates.

*Lake County CVB:* The bill reduces the number of members of the Lake County Convention and Visitor Bureau (Bureau) from 15 to 11. It makes various changes to Bureau duties and membership qualifications and specifies that the Bureau is a political subdivision for purposes of the Indiana Tort Claims Act. It also extends the terms of certain Bureau members.

**Effective Date:** Upon Passage; July 1, 2007.

**Explanation of State Expenditures:** *Sales Tax Rebate:* This bill will increase administrative costs for the Department of State Revenue (DOR) and the Office of Tourism Development (OTD).

The bill requires the DOR to receive and judge claims for the Sales Tax rebate provided in the bill. It is estimated that DOR could amend Sales Tax forms and develop procedures to implement the provisions of this bill through the use of existing staff and resources.

The bill requires the OTD to receive the applications, enter into agreements, and make certain determination of eligibility for the Sales Tax rebate provided in the bill. It is estimated that these provisions could be implemented by the OTD through the use of existing staff and resources.

**Explanation of State Revenues:** *Sales Tax Rebate:* This bill provides a Sales Tax rebate for people who build and operate a new tourism attraction. If this rebate stimulates development that would not have otherwise occurred, then this bill could increase Sales Tax revenue. The new rebates will reduce the amount of Sales Tax revenue that would be generated from the new investment. If these rebates apply to investments that would have occurred anyway, there would be a reduction in Sales Tax revenue.

The rebates in the bill are allowed for a maximum of 10 years and would not begin until completion of the first full calendar year of operation of the new tourist attraction. The effective date for this bill is July 1, 2007. Therefore, the earliest that Sales Tax revenues could be impacted would probably be in FY 2009.

The bill allows a person who proposes to operate a tourism attraction to apply to the OTD for a Sales Tax rebate. The amount of the rebate is equal to the lesser of:

- (1) 25% of the cost of building, developing, and preparing the tourism attraction divided by 10; or
- (2) 25% of the total amount of the Sales Tax remitted by all retail merchants at the tourism attraction in the preceding calendar year.

For example:

Cost of tourism attraction: \$20 M

25% of \$20 M = \$5 M; \$5 M divided by 10 = \$500,000

Sales Tax from merchants in the preceding calendar year: \$1 M

25% of \$1 M = \$250,000

Therefore, the rebate for this particular calendar year in the example would be \$250,000. A person may not receive a Sales Tax rebate, as provided in the bill, for more than 10 years.

Sales Tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

*Background:* In order to enter into an agreement with an applicant for a rebate, the OTD must first determine that all of 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 Sales Tax rebate is a major factor in the applicant's decision to go forward with the tourism attraction project, and not receiving the Sales Tax rebate will result in the applicant not creating new jobs in Indiana.
- (4) Awarding the Sales Tax rebate will result in an overall positive fiscal impact to the state, as certified by the Budget Agency using the best available data.
- (5) The OTD determines that the applicant's total qualified project costs will exceed \$5 M.
- (6) At least 25% of the visitors to the applicant's tourism attraction will be residents of other states.

The Director of the OTD on July 1 of each year must submit a report to the Lieutenant Governor on the Sales Tax rebate program that is established by this bill.

(Revised) The bill defines a tourism attraction as 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.
- (7) A paved track that is used primarily in the sport of auto racing and any facilities that are adjacent to and used in the connection with the operation of the track.
- (8) A winery.

The bill excludes the following from the definition of tourism attraction:

- (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.

(Revised) The bill defines an entertainment destination center as either of the following:

- (a) A facility containing at least 100,000 square feet of building space that:
  - (1) is adjacent or complementary to an existing tourism attraction, a tourism attraction project being developed, or a convention facility; and
  - (2) provides its patrons a variety of leisure and entertainment options, including:
    - (A) at least 1 major themed restaurant; and
    - (B) at least 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; or
- (b) A convention center and meeting conference center that:
  - (1) is owned by a municipal corporation; and
  - (2) contains at least 40,000 square feet of building space.

**Explanation of Local Expenditures:** *Lake County CVB:* The bill makes several changes relating to the Lake County Convention and Visitors Bureau (CVB).

- (1) The bill provides that the Lake County CVB is political subdivision for purposes of the Indiana Tort Claims Act.
- (2) The bill reduces the membership on the Lake County CVB from 15 members to 11 member, by eliminating two members appointed by the Lake County Council and two members appointed by the Lake County Commissioners. A noncode provision requires that the terms of these four members expire on July 1, 2007. Under current statute unchanged by the bill, the remaining 11 members of the CVB are appointed as follows: one member each by the

executives of the 8 largest municipalities in Lake County (Gary, Hammond, E. Chicago, Merrillville, Hobart, Schererville, Highland, and Munster) the Gary city council, the Hammond city council, and the Lt. Governor.

(Revised) (3) Subject to removal misfeasance, malfeasance, neglect, absence, or cause by a majority vote of the bureau, the bill extends the terms of Lake County CVB members appointed by the executives of Hobart and Highland. The bill extends the terms of these two members from January 1, 2007, when the terms currently expire, to July 1, 2011. A noncode provision of the bill also extends these terms from July 1, 2007 to July 1, 2008 but does not reference the removal provisions.

(4) The bill disqualifies from membership on the Lake County CVB a person who is convicted of a felony at a jury or bench trial, or who pleads guilty or nolo contendere to a felony. The disqualification requirement applies even if the felony is reduced to a Class A misdemeanor. However, a person is not disqualified if the person is pardoned or the conviction has been reversed, vacated, set aside, or not entered because the trial court did not accept the person's guilty plea.

(5) The bill defines more specifically the prohibition on political office holders being members of the Lake County CVB. The bill specifies that an appointee may not hold a school board office, an elected office, or another appointed local office while serving on the CVB. The current prohibition applies to a person holding an elected or appointed political office.

(6) The bill specifies that appointing authorities of members of the Lake County CVB must give sole consideration to individuals employed as executives or managers in a hotel, motel, restaurant, travel, transportation, convention, or trade show business in Lake County. Currently, the appointee only has to knowledgeable or interested in these fields. The bill adds to the list executives or managers of a riverboat casino as potential CVB members.

(7) The bill provides that a Lake County CVB member may be removed for misfeasance, malfeasance, neglect, absence, or cause by a majority vote of the CVB. Current statute provides for removal only by the appointing authority for cause.

(8) The bill allows Lake County CVB funds to be expended to promote and encourage conventions, trade shows, special events, recreation, and visitors within or outside of Lake County. Current statute limits such expenditures to these activities in Lake County, unless the Lake County CVB has entered into an agreement to establish a Joint CVB.

(9) The bill specifies that the Lake County CVB pay its expenses from funds established by the CVB. Current statute specifies that expenses are to be paid only from the Convention, Tourism, and Visitor Promotion Fund. This Fund contains revenue received from the Lake County Innkeepers Tax distributed to the CVB.

(10) The bill requires the annual budget prepared by the Lake County CVB to be submitted to the Department of Local Government Finance and placed on file with the Lake County Auditor.

**Explanation of Local Revenues:** *Lake County Innkeepers Tax:* The bill amends a provision regarding the distribution of a portion of the Lake County Innkeepers Tax. Under current statute, 9% of the first \$1.2 M in annual revenue from the tax is distributed among cities and towns in Lake County. Current statute unchanged by the bill provides for Gary, Hammond, and E. Chicago to each receive 10% of this revenue share. Current statute provides that 5% shares are to be distributed to the remaining cities and towns in Lake County. The bill simply provides that the remaining 70% of this revenue share is to be divided equally between the remaining cities and towns in Lake County. There are four cities (besides Gary, Hammond, and E. Chicago) and 12 towns in Lake County to which this distribution would be made.

**State Agencies Affected:** Department of State Revenue; Office of Tourism Development.

**Local Agencies Affected:** Lake County CVB; Lake County Commission; Lake County Council; cities and towns in Lake County.

**Information Sources:**

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