

HOUSE BILL No. 1554

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9; IC 35-52-6.

Synopsis: Howard County innkeeper's tax. Provides that the current Howard County innkeeper's tax law expires July 1, 2017, and reorganizes the administration of the Howard County innkeeper's tax under a new statute. Allows the county fiscal body to impose an innkeeper's tax of not more than 8%. Authorizes the establishment of a county convention, visitor, and tourism commission. Specifies the powers and duties of the commission. Provides for the deposit of innkeeper's taxes in a convention and visitor promotion fund, a tourism capital improvement fund, and an attractions fund. Specifies the permitted uses of money deposited in the funds.

Effective: Upon passage; July 1, 2017.

Karickhoff

January 23, 2017, read first time and referred to Committee on Ways and Means.



First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1554

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 6-9-16-9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 9. This chapter expires July 1, 2017.**
4 SECTION 2. IC 6-9-16.5 IS ADDED TO THE INDIANA CODE
5 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
6 UPON PASSAGE]:
7 **Chapter 16.5. Howard County Innkeeper's Tax**
8 **Sec. 1. This chapter applies to Howard County.**
9 **Sec. 2. The following definitions apply throughout this chapter:**
10 (1) "Commission" means the county convention, visitor, and
11 tourism commission established under section 4 of this
12 chapter.
13 (2) "Executive" has the meaning set forth in IC 36-1-2-5.
14 (3) "Fiscal body" has the meaning set forth in IC 36-1-2-6.
15 (4) "Fund" means the convention and visitor promotion fund
16 established under section 7 of this chapter.
17 (5) "Gross retail income" has the meaning set forth in



1 **IC 6-2.5-1-5.**

2 **(6) "Person" has the meaning set forth in IC 6-2.5-1-3.**

3 **(7) "Taxpayer" refers to a person upon whom an innkeeper's**
4 **tax is levied under section 3 of this chapter.**

5 **Sec. 3. (a) The fiscal body of a county may levy a tax on every**
6 **person engaged in the business of renting or furnishing, for periods**
7 **of less than thirty (30) days, any room or rooms, lodgings, or**
8 **accommodations in any:**

9 **(1) hotel;**

10 **(2) motel;**

11 **(3) boat motel;**

12 **(4) inn;**

13 **(5) college or university memorial union;**

14 **(6) college or university residence hall or dormitory; or**

15 **(7) tourist cabin;**

16 **located in the county. However, a tax imposed under this section**
17 **may not be applied to a transaction occurring before July 1, 2017.**

18 **(b) The tax does not apply to gross income received in a**
19 **transaction in which:**

20 **(1) a student rents lodging in a college or university residence**
21 **hall while that student participates in a course of study for**
22 **which the student receives college credit from a college or**
23 **university located in the county; or**

24 **(2) a person rents a room, lodging, or accommodations for a**
25 **period of thirty (30) days or more.**

26 **(c) The tax may not exceed the rate of eight percent (8%) on the**
27 **gross retail income derived from lodging income only and is in**
28 **addition to the state gross retail tax imposed under IC 6-2.5.**

29 **(d) The county fiscal body may adopt an ordinance to require**
30 **that a taxpayer report the tax on forms approved by the county**
31 **treasurer and that the taxpayer pay the tax monthly to the county**
32 **treasurer. If an ordinance is adopted under this subsection, the**
33 **taxpayer shall pay the tax to the county treasurer not more than**
34 **twenty (20) days after the end of the month the tax is collected. If**
35 **an ordinance is not adopted under this subsection, the tax must be**
36 **imposed, paid, and collected in exactly the same manner as the**
37 **state gross retail tax is imposed, paid, and collected under IC 6-2.5.**

38 **(e) All the provisions of IC 6-2.5 relating to rights, duties,**
39 **liabilities, procedures, penalties, definitions, exemptions, and**
40 **administration are applicable to the imposition and administration**
41 **of the tax imposed under this section except to the extent those**
42 **provisions are in conflict or inconsistent with the specific**



1 provisions of this chapter or the requirements of the county
 2 treasurer. If the tax is paid to the department of state revenue, the
 3 return to be filed for the payment of the tax under this section may
 4 be either a separate return or may be combined with the return
 5 filed for the payment of the state gross retail tax as the department
 6 of state revenue may, by rule, determine.

7 (f) If the tax is paid to the department of state revenue, the
 8 amounts received from the tax imposed under this section shall be
 9 paid monthly by the treasurer of state to the county treasurer upon
 10 warrants issued by the auditor of state.

11 Sec. 4. (a) If a tax is levied under section 3 of this chapter, the
 12 county executive shall establish a county convention, visitor, and
 13 tourism commission to promote the development and growth of the
 14 convention, visitor, and tourism industry in the county. If two (2)
 15 or more adjoining counties desire to establish a joint commission,
 16 the counties shall enter into an agreement under IC 36-1-7.

17 (b) The county executive shall determine the number of
 18 members, which must be an odd number, to be appointed to the
 19 commission. A simple majority of the members must be:

20 (1) engaged in a convention, visitor, or tourism business; or

21 (2) involved in or promoting conventions, visitors, or tourism.

22 If available and willing to serve, at least two (2) members must be
 23 engaged in the business of renting or furnishing rooms, lodging, or
 24 accommodations (as described in section 3 of this chapter). Not
 25 more than one (1) member may be affiliated with the same business
 26 entity. Not more than a simple majority of the members may be
 27 affiliated with the same political party. Each member must reside
 28 in the county. The county executive shall determine who will make
 29 the appointments to the commission, except that the executive of
 30 the largest municipality in the county shall appoint a number of the
 31 members of the commission, which number must be in the same
 32 ratio to the total size of the commission (rounded off to the nearest
 33 whole number) that the population of the largest municipality
 34 bears to the total population of the county.

35 (c) If a municipality other than the largest municipality in the
 36 county collects fifty percent (50%) or more of the tax revenue
 37 collected under this chapter during the three (3) month period
 38 following imposition of the tax, the executive of the municipality
 39 shall appoint the same number of members to the commission that
 40 the executive of the largest municipality in the county appoints
 41 under subsection (b).

42 (d) Except as provided in subsection (c), all terms of office of



1 commission members begin on January 1. However, initial
2 appointments must be for staggered terms beginning on July 1,
3 2017, with subsequent appointments for two (2) year terms. A
4 member whose term expires may be reappointed to serve another
5 term. If a vacancy occurs, the appointing authority shall appoint
6 a qualified person to serve for the remainder of the term. If an
7 initial appointment is not made by February 1 or a vacancy is not
8 filled within thirty (30) days, the commission shall appoint a
9 member by majority vote.

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

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

16 (g) Each commission member, before performing any duties
17 under this chapter, shall take an oath of office in the usual form, to
18 be endorsed upon the commission member's certificate of
19 appointment and promptly filed with the clerk of the circuit court
20 of the county.

21 (h) The commission shall meet after:

22 (1) July 1, 2017; and

23 (2) January 1 of 2019 and each calendar year thereafter;

24 for the purpose of organization. The commission shall elect one (1)
25 of its members president, another vice president, another
26 secretary, and another treasurer. The members elected to those
27 offices shall perform the duties pertaining to the offices. The first
28 officers chosen shall serve from the date of their election until their
29 successors are elected and qualified. A majority of the commission
30 constitutes a quorum, and the concurrence of a majority of the
31 commission is necessary to authorize any action.

32 Sec. 5. (a) The commission may:

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

36 (2) sue and be sued;

37 (3) enter into contracts and agreements;

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

40 (5) receive and approve, alter, or reject requests and
41 proposals for funding by corporations qualified to receive
42 transfers described in subdivision (6);



1 (6) transfer money for the purposes specified in sections 7
2 through 9 of this chapter; and

3 (7) require financial or other reports from any nonprofit
4 corporation that receives money under this chapter.

5 (b) The expenses of the commission must be paid from the fund.
6 The commission shall annually prepare a budget, taking into
7 consideration the recommendations made by a corporation
8 qualified to receive transfers from the commission under section
9 7(c) of this chapter, and submit the budget to the county fiscal body
10 for its review and approval. The budget must provide that the first
11 use of the tax revenue received under this chapter is for the
12 payment of all debt service, lease rentals, or other obligations
13 described in section 8(c) of this chapter. The budget must provide
14 for the allocation of the remaining tax revenue among the funds
15 established under sections 7 through 9 of this chapter. Tax revenue
16 may be allocated among the funds in any amounts, manner, or
17 methodology recommended by a corporation qualified to receive
18 transfers from the commission under section 7(c) of this chapter.
19 Subject to subsection (c), an expenditure may not be made under
20 this chapter unless:

21 (1) it is in accordance with an appropriation made by the
22 county fiscal body in the manner provided by law; and

23 (2) in the case of an expenditure payable from the tourism
24 capital improvement fund, the specific project for which the
25 expenditure will be made has been:

26 (A) recommended to the county fiscal body by the
27 commission; and

28 (B) approved by the county fiscal body.

29 (c) Upon the request of the commission, the county fiscal body
30 may allocate and appropriate an amount of not more than two
31 hundred seventy-five thousand dollars (\$275,000) for incidental
32 capital improvement projects that may be expended on a project
33 without obtaining the specific approval of the project from the
34 county fiscal body under subsection (b)(2).

35 Sec. 6. All money coming into possession of the commission must
36 be deposited, held, secured, invested, and paid in accordance with
37 statutes relating to the handling of public funds. The handling and
38 expenditure of money coming into possession of the commission is
39 subject to audit and supervision by the state board of accounts.

40 Sec. 7. (a) If a tax is levied under section 3 of this chapter, the
41 county treasurer shall establish a convention and visitor promotion
42 fund. The county treasurer shall monthly deposit in the fund an



1 amount determined by the commission.

2 (b) Money in the fund may be used for the following purposes:

3 (1) To pay the expenses of the commission.

4 (2) To make transfers under subsection (c).

5 (3) Any other purpose specified by this chapter.

6 (c) The commission may transfer money in the fund to any
7 Indiana nonprofit corporation that uses the money to promote and
8 encourage conventions, trade shows, visitors, and special events in
9 the county. Transfers under this subsection must be approved by
10 the commission at a public meeting.

11 Sec. 8. (a) If a tax is levied under section 3 of this chapter, the
12 county treasurer shall establish a tourism capital improvement
13 fund. The county treasurer shall monthly deposit in the fund an
14 amount determined by the commission.

15 (b) The commission may transfer money in the tourism capital
16 improvement fund to:

17 (1) Howard County, a city located in Howard County, or a
18 separate body corporate and politic located in Howard
19 County; or

20 (2) any Indiana nonprofit corporation;

21 for the purpose of making capital improvements in the county that
22 promote conventions, tourism, or recreation. Transfers under this
23 subsection must be approved by the commission at a public
24 meeting.

25 (c) The commission may pledge future revenue to be received in
26 the tourism capital improvement fund to provide debt service on
27 bonds, lease rental payments, or to provide debt service on other
28 obligations issued by a city government for the purpose of making
29 or financing capital improvements, including financing economic
30 development facilities under IC 36-7-12, that promote conventions,
31 tourism, or recreation. The commission may pledge revenue under
32 this section only after the pledge has been recommended by the
33 commission to the county council and approved by the county
34 council.

35 Sec. 9. (a) If a tax is levied under section 3 of this chapter, the
36 county treasurer shall establish an attractions fund. The county
37 treasurer shall monthly deposit in the fund an amount determined
38 by the commission.

39 (b) Money in the fund must be expended for the operating
40 expenses of a convention center or to assist with the operations of
41 other tourism related attractions in the county. An unused balance
42 in the attractions fund must be transferred on January 1 of each



1 year to the tourism capital improvement fund or the convention
2 and visitor promotion fund, as directed by the commission.

3 **Sec. 10.** At the request of the commission, a nonprofit
4 corporation accepting money transferred by the commission under
5 section 7, 8, or 9 of this chapter shall provide financial and other
6 reports on the nonprofit corporation's use of the money.

7 **Sec. 11. (a)** After June 30, 2017, a member of the commission
8 who knowingly:

9 (1) approves the transfer of money to any person or
10 corporation not qualified under law for that transfer; or

11 (2) approves a transfer for a purpose not permitted under
12 law;

13 commits a Level 6 felony.

14 (b) After June 30, 2017, a person who receives a transfer of
15 money under this chapter and knowingly uses that money for any
16 purpose not permitted under this chapter commits a Level 6 felony.

17 SECTION 3. IC 35-52-6-74 IS REPEALED [EFFECTIVE JULY 1,
18 2017]. ~~Sec. 74. IC 6-9-16-8 defines a crime concerning innkeeper's~~
19 ~~taxes.~~

20 SECTION 4. IC 35-52-6-74.5 IS ADDED TO THE INDIANA
21 CODE AS A NEW SECTION TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2017]: **Sec. 74.5. IC 6-9-16.5-11 defines a**
23 **crime concerning innkeeper's taxes.**

24 SECTION 5. An emergency is declared for this act.

