

HOUSE BILL No. 1177

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8-10.5-6; IC 36-8-12.

Synopsis: Volunteer firefighters. Provides that an individual may serve as a member of more than one volunteer fire company. Requires each local government unit that has a volunteer fire company to procure insurance for each member of a volunteer fire company that provides for payment for injury or disease or for a cardiac disease event proximately caused by the member's duties and for the payment of disability benefits in an amount determined by the member's average weekly wage earned from the member's usual vocation. Provides that the disability benefit provided to a member for permanent partial impairment shall be paid in a lump sum. Provides that the amount of weekly wage insured under the policy may not exceed the maximum wage paid under the worker's compensation statute for the same type
(Continued next page)

Effective: Upon passage; July 1, 1998.

Ruppel, Bischoff, Liggett, Becker

January 8, 1998, read first time and referred to Committee on Local Government.

C
o
p
y



Digest Continued

of disability. Establishes a volunteer firefighting and emergency services study committee to study issues related to volunteer firefighting and emergency services. Authorizes a volunteer fire department to collect the reasonable replacement cost for expendable materials used at the scene of a fire and for the cost of services for extinguishing, containing, and disposal of hazardous materials.

C
o
p
y



Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

C
O
P
Y

HOUSE BILL No. 1177



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-8-10.5-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) A full-time
3 firefighter must successfully complete the minimum basic training
4 requirements established by this chapter before the firefighter may
5 perform the duties of a full-time firefighter for the political subdivision.

6 (b) A volunteer firefighter ~~must who has~~ successfully ~~complete~~
7 **completed** the minimum basic training requirements established by
8 this chapter ~~before being~~ **may be** elected or appointed to membership
9 in ~~a more than one~~ **(1)** volunteer fire company.

10 SECTION 2. IC 36-8-12-7, AS AMENDED BY P.L.229-1996,
11 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 1998]: Sec. 7. Each policy of insurance must provide for
13 payment to a member of a volunteer fire company for ~~accidental~~ injury
14 **or disease or smoke inhalation caused by** ~~or~~ occurring in the course of
15 the performance of the duties of a volunteer firefighter and for a



1 cardiac disease event proximately caused **by the duties or for which**
 2 **medical treatment is obtained** within forty-eight (48) hours **by or**
 3 **occurring in the course of after** the performance of the duties of a
 4 volunteer firefighter **while in an emergency situation**; as follows:

5 (1) For total disability that prevents the member from pursuing **his**
 6 **the member's** usual vocation:

7 (A) **for the first thirty (30) days of disability**, a weekly
 8 **indemnity benefit** of not less than one hundred fifty dollars
 9 (\$150); **up to and**

10 (B) **for the remaining period of the disability, the greater**
 11 **of:**

12 (i) **one hundred fifty dollars (\$150) per week; or**

13 (ii) **an amount equal to sixty-six and two-thirds percent**
 14 **(66 2/3%) of the member's average weekly wage (as**
 15 **defined in IC 22-3-6-1(d)) earned from the member's**
 16 **usual vocation immediately before the member's**
 17 **disability.**

18 **However, the benefit period may not exceed** a maximum of two
 19 hundred sixty (260) weeks.

20 (2) For medical expenses; coverage for incurred expenses:
 21 However, the policy may not have medical expense limits of less
 22 than ~~seventy-five thousand dollars (\$75,000)~~; **partial disability**
 23 **not covered by IC 36-8-12-10 that results in a loss of wages**
 24 **from the member's usual vocation, an amount equal to**
 25 **sixty-six and two-thirds percent (66 2/3%) of the difference**
 26 **between the member's average weekly wage immediately**
 27 **before the member's disability and the member's average**
 28 **weekly wage during the period of partial disability. However,**
 29 **the benefit period may not exceed a maximum of two hundred**
 30 **sixty (260) weeks.**

31 (3) For permanent partial impairment, an amount equal to:

32 (A) **a percentage that represents the percent of a whole**
 33 **person of the bodily functions permanently lost; multiplied**
 34 **by**

35 (B) **the product of two hundred sixty (260) weeks**
 36 **multiplied by the average weekly wage earned from the**
 37 **member's usual vocation immediately before the member's**
 38 **disability.**

39 **The benefit provided under this subdivision must be paid to**
 40 **the member in a lump sum.**

41 **The average weekly wage used under this section may not exceed**
 42 **the maximum described in IC 22-3-3-22 (b).**

C
O
P
Y



1 SECTION 3. IC 36-8-12-8 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) The policy of
 3 insurance required by section 6 of this chapter must provide for the
 4 payment of a sum not less than one hundred fifty thousand dollars
 5 (\$150,000) to the beneficiary, beneficiaries, or estate of a volunteer
 6 firefighter if the firefighter dies from an injury or ~~smoke inhalation~~
 7 ~~occurring while in~~ **disease caused by an accident arising out of and**
 8 **in the course of** the performance of the firefighter's duties as a
 9 volunteer firefighter or from a cardiac disease event proximately
 10 caused **by the duties or for which medical treatment was obtained**
 11 within forty-eight (48) hours ~~by or occurring while in~~ **after** the
 12 performance of the firefighter's duties as a volunteer firefighter while
 13 in an emergency situation.

14 (b) ~~The policy of insurance must provide for the payment of a sum~~
 15 ~~not less than sixty thousand dollars (\$60,000) to the volunteer~~
 16 ~~firefighter if the firefighter becomes totally and permanently disabled~~
 17 ~~for a continuous period of not less than two hundred sixty (260) weeks~~
 18 ~~as a result of an injury or smoke inhalation occurring in the~~
 19 ~~performance of the firefighter's duties as a volunteer firefighter.~~

20 (c) ~~The policy of insurance must also provide for indemnification to~~
 21 ~~a member of a volunteer fire company who becomes partially and~~
 22 ~~permanently disabled or impaired as a result of an injury or smoke~~
 23 ~~inhalation occurring in the performance of the firefighter's duties.~~

24 (d) ~~For the purposes of this section, partial and permanent disability~~
 25 ~~or impairment shall be indemnified as a percentage factor of a whole~~
 26 ~~person.~~

27 (e) ~~(b)~~ In addition to other insurance provided volunteer firefighters
 28 under this chapter, each unit shall be covered by an insurance policy
 29 that provides a minimum of three hundred thousand dollars (\$300,000)
 30 of insurance coverage for the liability of all of its volunteer firefighters
 31 for bodily injury or property damage caused by the firefighters acting
 32 in the scope of their duties while on the scene of a fire or other
 33 emergency. The civil liability of a volunteer firefighter for:

- 34 (1) an act that is within the scope of a volunteer firefighter's
- 35 duties; or
- 36 (2) the failure to do an act that is within the scope of a volunteer
- 37 firefighter's duties;

38 while performing emergency services at the scene of a fire or other
 39 emergency or while traveling in an emergency vehicle from the fire
 40 station to the scene of the fire or emergency or from the scene of a fire
 41 or emergency back to the fire station is limited to the coverage
 42 provided by the insurance policy purchased under this subsection. A



C
O
P
Y

1 volunteer firefighter is not liable for punitive damages for any act that
 2 is within the scope of a volunteer firefighter's duties. However, if
 3 insurance as required under this subsection is not in effect to provide
 4 liability coverage for a volunteer firefighter, the firefighter is not
 5 subject to civil liability for an act or a failure to act as described in this
 6 subsection.

7 SECTION 4. IC 36-8-12-16, AS AMENDED BY P.L.1-1996,
 8 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 1998]: Sec. 16. (a) A volunteer fire department that provides
 10 service within a jurisdiction served by the department may establish a
 11 schedule of **service** charges for the services that the department
 12 provides not to exceed the state fire marshal's recommended schedule
 13 for services. Except as provided in IC 36-8-12-13, the volunteer fire
 14 department may collect a service charge according to this schedule **and**
 15 **may collect the reasonable replacement cost for expendable**
 16 **materials used at the scene and for disposal of hazardous materials**
 17 from the owner of property or responsible party (as defined in
 18 IC 13-11-2-191(d)) that receives service. ~~including a service charge for~~
 19 **A volunteer fire department may charge a reasonable fee for**
 20 **services for** extinguishing, containing, or cleaning up hazardous
 21 materials (as defined in IC 13-11-2-96(b)) ~~if the following conditions~~
 22 ~~are met: and for materials used by the volunteer fire department in~~
 23 ~~disposal of hazardous materials. For service charges unrelated to~~
 24 ~~extinguishing, containing, or cleaning up hazardous materials, the~~
 25 ~~following conditions must be met:~~

26 (1) At the following times, the department gives notice under
 27 IC 5-3-1 of the amount of the service charge for each service that
 28 the department provides:

29 (A) Before the schedule of service charges is initiated.

30 (B) When there is a change in the amount of a service charge.

31 (2) The property owner has not sent written notice to the
 32 department to refuse service by the department to the owner's
 33 property.

34 (3) The department's bill for payment of the service charge:

35 (A) is submitted to the property owner or a responsible party
 36 in writing within thirty (30) days after the services are
 37 provided; and

38 (B) includes a copy of a fire incident report in the form
 39 prescribed by the state fire marshal, if the service was
 40 provided for an event that requires a fire incident report.

41 (b) A volunteer fire department shall use the revenue the department
 42 collects from the fire service charges under this section for:



C
O
P
Y

1 (1) the purchase of equipment, buildings, and property for
2 firefighting, fire protection, or other emergency services;

3 (2) deposit in the township firefighting fund established under
4 IC 36-8-13-4; or

5 (3) to pay principal and interest on a loan under IC 22-14-5.

6 (c) If at least twenty-five percent (25%) of the money received by a
7 volunteer fire department for providing fire protection or emergency
8 services is received under one (1) or more contracts with one (1) or
9 more political subdivisions (as defined in IC 34-4-16.5-2), the
10 legislative body of a contracting political subdivision must approve the
11 schedule of service charges established under subsection (a) before the
12 schedule of service charges is initiated in that political subdivision.

13 (d) A volunteer fire company that:

14 (1) has contracted with a political subdivision to provide fire
15 protection or emergency services; and

16 (2) charges for services under this section;

17 must submit a report to the legislative body of the political subdivision
18 before April 1 of each year indicating the amount of service charges
19 collected during the previous calendar year and how those funds have
20 been expended.

21 (e) The state fire marshal shall annually prepare and publish a
22 recommended schedule of service charges for fire protection services.

23 (f) The volunteer fire company may maintain a civil action to
24 recover an unpaid service charge under this section.

25 **SECTION 5. [EFFECTIVE UPON PASSAGE] (a) As used in this**
26 **SECTION, "committee" refers to the volunteer firefighting and**
27 **emergency services study committee established by subsection (b).**

28 **(b) The volunteer firefighting and emergency services study**
29 **committee is established.**

30 **(c) The committee shall do the following:**

31 **(1) Study issues related to volunteer firefighting and**
32 **emergency services.**

33 **(2) Study the current laws related to volunteer firefighting**
34 **and emergency services.**

35 **(3) Make recommendations to revise and consolidate Indiana**
36 **laws related to volunteer firefighting and emergency services.**

37 **(d) The committee may study other topics assigned by the**
38 **legislative council or as directed by the committee's chairman.**

39 **(e) The committee is under the jurisdiction of the legislative**
40 **council and shall operate under the direction of the legislative**
41 **council.**

42 **(f) Before November 1 of each year, the committee shall issue an**

C
O
P
Y



1 annual report stating the committee's findings, conclusions, and
2 recommendations made during the most recent interim period
3 between meetings of the general assembly. The committee shall
4 issue other reports as directed by the legislative council.

5 (g) The committee consists of the following eight (8) members:

6 (1) Four (4) members of the house of representatives, not
7 more than two (2) of whom are of the same political party,
8 appointed by the speaker of the house of representatives with
9 the advice of the floor leader of the party opposite the
10 speaker's party.

11 (2) Four (4) members of the senate, not more than two (2) of
12 whom are of the same political party, appointed by the
13 president pro tempore of the senate with the advice of the
14 minority leader of the senate.

15 (h) At the time the committee members are appointed, the
16 chairman of the legislative council shall name one (1) of the
17 legislative members as chairman and the vice chairman of the
18 legislative council shall name one (1) of the legislative members as
19 vice chairman. However, the appointing authority may name a
20 different legislative member as chairman or vice chairman at any
21 time.

22 (i) A member of the committee may be removed at any time by
23 the appointing authority who appointed the member.

24 (j) The term of a legislative member expires immediately upon
25 the election of the general assembly following the member's
26 appointment. A vacancy occurs if a legislative member leaves office
27 for any reason.

28 (k) The appointing authority shall fill a vacancy on the
29 committee by appointing a member for the unexpired term.

30 (l) The committee shall meet annually during the interim
31 between adjournment of sessions of the general assembly and
32 November 1 at the call of the chairman or at other times the
33 committee determines.

34 (m) Notice of the time, place, and agenda of committee meetings
35 shall be given in the same manner as meetings of interim study
36 committees established by the legislative council.

37 (n) The affirmative vote of a majority of the members appointed
38 to the committee are required for the committee to take action on
39 any measure, including final reports.

40 (o) Each member of the committee is entitled to receive the same
41 per diem, mileage, and travel allowances paid to individuals
42 serving as legislative and lay members, respectively, on interim

C
O
P
Y



- 1 study committees established by the legislative council.
- 2 (p) The legislative services agency shall provide staff and
3 administrative support for the committee.
- 4 (q) The legislative council shall establish a budget for the
5 committee. Subject to prior authorization of the legislative council,
6 the expenses incurred by the committee in performing the
7 committee's duties shall be paid from the funds appropriated to the
8 legislative council.
- 9 (r) This SECTION expires December 31, 1998.
- 10 SECTION 6. [EFFECTIVE JULY 1, 1998] IC 36-8-12-7 and
11 IC 36-8-12-8, both as amended by this act, apply to members of a
12 volunteer fire company who are disabled after June 30, 1998.
- 13 SECTION 7. An emergency is declared for this act.

C
O
P
Y