

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1146 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 27-1-29-14 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 14. (a) In order to
- 5 be eligible for payment under this chapter, a liability of a political
- 6 subdivision must arise out of a claim based upon an act or omission
- 7 that takes place while the political subdivision is a member of the fund.
- 8 (b) The maximum amount payable from the fund for any liability,
- 9 whether or not it is covered under IC 34-13-3 (or IC 34-4-16.5 before
- 10 its repeal), is:
- 11 (1) ~~three five~~ **five** hundred thousand dollars (~~\$300,000~~) (**\$500,000**) for
- 12 injury, death, or damage suffered by any one (1) person as a result
- 13 of the act or omission from which the liability arises; and
- 14 (2) one million dollars (\$1,000,000) for all injury, death, or
- 15 damage suffered by all persons as a result of the act or omission
- 16 from which the liability arises.
- 17 (c) No amount may be paid from the fund in respect of punitive
- 18 damages paid by or assessed against a member of the fund.
- 19 (d) No amount may be paid from the fund in the case of a liability
- 20 based upon bodily injury or property damage arising out of the
- 21 discharge, dispersal, release, or escape of smoke, vapors, soot, fumes,
- 22 acids, alkalis, toxic chemicals, liquids, gases, waste materials, or other
- 23 irritants, contaminants, or pollutants into or upon land, the atmosphere,
- 24 or any watercourse or body of water unless the discharge, dispersal,

- 1 release, or escape:
- 2 (1) is caused by an act or omission of a political subdivision that
- 3 is a member of the fund; and
- 4 (2) occurs as a result of:
- 5 (A) a household hazardous waste; or
- 6 (B) a conditionally exempt small quantity generator (as
- 7 described in 40 CFR 261.5(a);
- 8 collection, disposal, or recycling project conducted by or
- 9 controlled by the political subdivision.
- 10 (e) The commissioner may pay a liability of a member of the fund
- 11 in a series of annual payments. The amount of any annual payment
- 12 under this subsection must be one hundred thousand dollars (\$100,000)
- 13 or more, except for the final payment in a series of payments.
- 14 (f) The commission may negotiate a structured settlement of any
- 15 claim.
- 16 (g) As used in this section, "household hazardous waste" means
- 17 solid waste generated by households that consists of or contains a
- 18 material that is:
- 19 (1) ignitable, as described in 40 CFR 261.21;
- 20 (2) corrosive, as described in 40 CFR 261.22;
- 21 (3) reactive, as described in 40 CFR 261.23; or
- 22 (4) toxic, as described in 40 CFR 261.24.
- 23 SECTION 2. IC 27-1-29.1-13 IS AMENDED TO READ AS
- 24 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 13. The amount
- 25 that is to be paid by the commission toward the satisfaction of a
- 26 liability qualifying for partial payment under this chapter is determined
- 27 in STEP FOUR of the following formula:
- 28 STEP ONE: If the total amount of the liability exceeds ~~five eight~~
- 29 million dollars (~~\$5,000,000~~); **(\$8,000,000)**, subtract ~~five eight~~
- 30 million dollars (~~\$5,000,000~~) **(\$8,000,000)** from the total amount
- 31 of the liability.
- 32 STEP TWO: Add the remainder under STEP ONE to the
- 33 minimum total amount figure that applies to the liability under
- 34 section 12 of this chapter.
- 35 STEP THREE: Add to the sum determined under STEP TWO the
- 36 total amount expended by the commission under section 16 of this
- 37 chapter in defending the member of the fund against claims
- 38 giving rise to the liability.
- 39 STEP FOUR: Subtract the sum determined under STEP THREE
- 40 from the total amount of the liability."
- 41 Page 1, between lines 10 and 11, begin a new paragraph and insert:
- 42 "SECTION 4. IC 34-13-3-20 IS AMENDED TO READ AS
- 43 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 20. (a) A political
- 44 subdivision may purchase insurance to cover the liability of itself or its
- 45 employees. Any liability insurance so purchased shall be purchased by
- 46 invitation to and negotiation with providers of insurance and may be

1 purchased with other types of insurance. If such a policy is purchased,  
2 the terms of the policy govern:

3 (1) the rights and obligations of the political subdivision and the  
4 insurer with respect to the investigation, settlement, and defense  
5 of claims or suits brought against the political subdivision or its  
6 employees covered by the policy; **and**

7 **(2) with respect to the maximum aggregate liability**  
8 **limitations when the policy provisions are in excess of the**  
9 **limitations in section 4 of this chapter.**

10 However, the insurer may not enter into a settlement for an amount that  
11 exceeds the insurance coverage without the approval of the mayor, if  
12 the claim or suit is against a city, or the governing body of any other  
13 political subdivision, if the claim or suit is against such political  
14 subdivision.

15 (b) The state may not purchase insurance to cover the liability of the  
16 state or its employees. This subsection does not prohibit any of the  
17 following:

18 (1) The requiring of contractors to carry insurance.

19 (2) The purchase of insurance to cover losses occurring on real  
20 property owned by the public employees' retirement fund or the  
21 Indiana state teachers' retirement fund.

22 (3) The purchase of insurance by a separate body corporate and  
23 politic to cover the liability of itself or its employees.

24 (4) The purchase of casualty and liability insurance for foster  
25 parents (as defined in IC 27-1-30-4) on a group basis.".

26 Renumber all SECTIONS consecutively.

(Reference is to HB 1146 as printed January 28, 2000.)

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Representative Dvorak