



Reprinted
January 25, 2000

HOUSE BILL No. 1259

DIGEST OF HB 1259 (Updated January 24, 2000 6:39 PM - DI 52)

Citations Affected: IC 13-25; IC 36-8.

Synopsis: Fire department hazardous material costs. Requires that a responsible party reimburse a full-time, paid fire department, or a fire department that employs both full time, paid members and volunteer members, for all expenses incurred by the department in taking emergency action with respect to containment, control, and cleanup of hazardous materials. Provides that a court action to collect a reimbursement may be brought either in: (1) the county in which the hazardous materials emergency arose; or (2) the county in which the fire department is located. Allows the department to establish a schedule of charges. Establishes the permissible uses of money collected. Provides that a fire department that imposes a service charge and maintains a court action for reimbursement may recover all costs of the action, including attorney fees. Provides a penalty for failure of the responsible party to pay the charges when due.

Effective: Upon passage.

**Herrell, Adams T, Alderman,
Bardon, Ripley, Stevenson, Ruppel**

January 10, 2000, read first time and referred to Committee on Local Government.
January 13, 2000, reported — Do Pass.
January 18, 2000, read second time, ordered engrossed. Engrossed.
January 19, 2000, read third time, made special order of business for January 20, 2000, at 1:30 p.m.
January 24, 2000, reread third time, recommitted to Committee of One, amended; passed.
Yeas 97, nays 0.
January 25, 2000, re-engrossed.

HB 1259—LS 7055/DI 52+



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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1259

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

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

- 1 SECTION 1. IC 13-25-6-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a)
3 Reimbursement is available under this chapter for expenses that are
4 incurred by ~~the an~~ emergency response agency (**other than a fire**
5 **department established under IC 36-8-2-3 or IC 36-8-13-3(a)(1)**
6 **that employs both full time, paid members and volunteer members**
7 **or only full time, paid members**) in taking the emergency action,
8 except for expenses of a type that the agency normally incurs in
9 responding to emergencies that do not involve hazardous materials.
10 (b) **Reimbursement is available under this chapter for expenses**
11 **that are incurred by a fire department established under**
12 **IC 36-8-2-3 or IC 36-8-13-3(a)(1) that employs both full time, paid**
13 **members and volunteer members or only full time, paid members**
14 **in taking the emergency action.**
15 SECTION 2. IC 13-25-6-5 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. An emergency
17 response agency or a governmental entity may obtain reimbursement

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1 under this chapter by filing an action for reimbursement in a court of
2 general jurisdiction of:

- 3 (1) a county in which a hazardous materials emergency arose; or
4 (2) if the emergency response agency is a fire department
5 established by a unit under IC 36-8-2-3 or IC 36-8-13-3(a)(1)
6 that employs both full time, paid members and volunteer
7 members or only full time, paid members, the county in which
8 the unit is located.

9 SECTION 3. IC 36-8-12.2 IS ADDED TO THE INDIANA CODE
10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]:

12 **Chapter 12.2. Reimbursement of Full-Time, Paid Fire**
13 **Departments for Hazardous Materials Emergency Action**

14 **Sec. 1. As used in this chapter, "fire department" means a fire**
15 **department established under IC 36-8-2-3 or IC 36-8-13-3(a)(1)**
16 **that employs both full time, paid members and volunteer members**
17 **or only full time, paid members.**

18 **Sec. 2. As used in this chapter, "hazardous materials**
19 **emergency" has the meaning set forth in IC 13-11-2-97.**

20 **Sec. 3. As used in this chapter, "responsible party" has the**
21 **meaning set forth in IC 13-11-2-191(d).**

22 **Sec. 4. A fire department may impose a charge on a responsible**
23 **party that is involved in a hazardous materials emergency that:**

- 24 (1) is responded to by the fire department; and
25 (2) members of that fire department assisted in containing,
26 controlling, or cleaning up.

27 **Sec. 5. The fire department shall bill the responsible party for**
28 **the total value of the assistance provided, with that value**
29 **determined under the schedule of charges established under section**
30 **7 of this chapter. A copy of the fire incident report to the state fire**
31 **marshal must accompany the bill. This billing must take place**
32 **within thirty (30) days after the assistance is provided. The owner**
33 **or responsible party shall remit payment directly to the fire**
34 **department providing the service.**

35 **Sec. 6. Money collected under this chapter must be deposited in**
36 **the general fund of the unit that established the fire department**
37 **under IC 36-8-2-3 and may be used only for the following:**

- 38 (1) Purchase of supplies and equipment used in providing
39 assistance under this chapter.
40 (2) Training for members of the fire department in skills
41 necessary for providing assistance under this chapter.
42 (3) Payment to persons with which the fire department



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1 contracts to provide services related to the assistance
 2 provided by the fire department under this chapter.
 3 **Sec. 7. A fire department may establish a schedule of charges**
 4 **for the services that the department provides. The fire department**
 5 **may include in the schedule of charges all costs incurred by the**
 6 **department in providing assistance under this chapter, including:**
 7 (1) the cost of overtime compensation to its members incurred
 8 as a result of a response to a hazardous materials emergency;
 9 and
 10 (2) the cost of monitoring a hazardous materials emergency
 11 site after the initial response to the emergency.
 12 **Sec. 8. A fire department that imposes a service charge under**
 13 **this chapter and maintains an action for reimbursement under**
 14 **IC 36-25-6-5 may recover all costs of the action, including attorney**
 15 **fees.**
 16 **Sec. 9. A responsible party is subject to a penalty for failure to**
 17 **pay the full amount of a charge made under this chapter within**
 18 **sixty (60) days after the issuance of the bill for payment by the fire**
 19 **department. The amount of the penalty is ten percent (10%) of the**
 20 **amount of the charge that remains unpaid on the due date.**
 21 **SECTION 4. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1259, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEVENSON, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1259 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 1, line 4, after "agency" insert "(".

Page 1, line 4, delete "full-time,".

Page 1, line 5, delete "paid".

Page 1, line 5, after "IC 36-8-2-3" insert "**or IC 36-8-13-3(a)(1) that employs both full time, paid members and volunteer members or only full time, paid members)**".

Page 1, line 10, delete "full-time, paid".

Page 1, line 11, after "IC 36-8-2-3" insert "**or IC 36-8-13-3(a)(1) that employs both full time, paid members and volunteer members or only full time, paid members)**".

Page 2, line 2, after "IC 36-8-2-3" insert "**or IC 36-8-13-3(a)(1) that employs both full time, paid members and volunteer members or only full time, paid members)**".

Page 2, line 10, delete "full-time, paid".

Page 2, line 10, after "IC 36-8-2-3" insert "**or IC 36-8-13-3(a)(1) that employs both full time, paid members and volunteer members or only full time, paid members)**".

Page 3, delete lines 5 through 20, begin a new paragraph and insert:
"Sec. 8. A fire department that imposes a service charge under this chapter and maintains an action for reimbursement under IC 36-25-6-5 may recover all costs of the action, including attorney fees."

(Reference is to HB 1259 as printed January 14, 2000.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1259, begs leave to report that said bill has been amended as directed.

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