



February 21, 2007

SENATE BILL No. 458

DIGEST OF SB 458 (Updated February 19, 2007 11:31 am - DI 52)

Citations Affected: IC 13-11; IC 13-30.

Synopsis: Environmental civil penalties. Allows the department of environmental management to waive civil penalties imposed for certain minor violations on a state agency or political subdivision. Prohibits waiver with respect to an intentional, willful, or criminal act, omission, or failure only with respect to a partner, officer, or director of a business, state agency, or political subdivision acting within the scope of the person's employment or office.

Effective: July 1, 2007.

Dillon

January 11, 2007, read first time and referred to Committee on Energy and Environmental Affairs.
February 20, 2007, amended, reported favorably — Do Pass.

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February 21, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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SENATE BILL No. 458

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 13-11-2-164 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 164. (a) "Political
3 subdivision", for purposes of IC 13-18-13, means:
4 (1) a political subdivision (as defined in IC 36-1-2);
5 (2) a regional water, sewage, or solid waste district organized
6 under:
7 (A) IC 13-26; or
8 (B) IC 13-3-2 (before its repeal July 1, 1996); or
9 (3) a local public improvement bond bank organized under
10 IC 5-1.4.
11 (b) "Political subdivision", for purposes of IC 13-18-21, means:
12 (1) a political subdivision (as defined in IC 36-1-2);
13 (2) a regional water, sewage, or solid waste district organized
14 under:
15 (A) IC 13-26; or
16 (B) IC 13-3-2 (before its repeal July 1, 1996);
17 (3) a local public improvement bond bank organized under

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- 1 IC 5-1.4;
- 2 (4) a qualified entity described in IC 5-1.5-1-8(4) that is a public
- 3 water utility described in IC 8-1-2-125; or
- 4 (5) a conservancy district established for the purpose set forth in
- 5 IC 14-33-1-1(a)(4).

6 (c) "Political subdivision", for purposes of IC 13-19-5, has the
 7 meaning set forth in IC 36-1-2-13 and includes a redevelopment district
 8 under IC 36-7-14 or IC 36-7-15.1.

9 **(d) "Political subdivision", for purposes of IC 13-30-4, has the**
 10 **meaning set forth in IC 36-1-2-13.**

11 SECTION 2. IC 13-11-2-219.1 IS ADDED TO THE INDIANA
 12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2007]: **Sec. 219.1. "State agency", for**
 14 **purposes of IC 13-30-4, means an authority, a board, a branch, a**
 15 **commission, a committee, a department, a division, or another**
 16 **instrumentality of state government.**

17 SECTION 3. IC 13-30-4-3 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The department
 19 may waive up to one hundred percent (100%) of a civil penalty
 20 imposed on a business, **a state agency, or a political subdivision** for
 21 a minor violation of:

- 22 (1) a requirement of environmental management laws;
- 23 (2) a rule adopted by a board; or
- 24 (3) any determination, permit, or order made or issued by the
- 25 commissioner.

26 (b) The department may not waive any part of a civil penalty under
 27 this section if the violation:

- 28 (1) endangers or causes damage to public health or the
- 29 environment;
- 30 (2) ~~is~~ **results from an intentional, willful, or criminal act,**
- 31 **omission, or failure of a partner, officer, or director of the**
- 32 **business, state agency, or political subdivision acting within**
- 33 **the scope of that person's employment or office;**
- 34 (3) is of a requirement for which the department has previously
- 35 issued a notice or warning of violation, for this or a prior
- 36 violation, to the business, **state agency, or political subdivision**
- 37 required to correct the violation; or
- 38 (4) is not corrected within ninety (90) days after the date the
- 39 business, **state agency, or political subdivision** required to
- 40 correct the violation notifies the department of the violation under
- 41 subsection (c). The department may extend the ninety (90) day
- 42 period for not more than an additional ninety (90) days.

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- 1 (c) To seek a waiver of a civil penalty under this section, the
- 2 business, **state agency, or political subdivision** required to correct the
- 3 violation must submit to the department a written report of the violation
- 4 for which a waiver is sought. The report must be submitted to the
- 5 department before an inspection by the department that discloses the
- 6 violation or the issuance of a notice or warning of violation.
- 7 (d) The boards may adopt rules to implement this section.

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 458, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 17 through 42, begin a new paragraph and insert:

"SECTION 3. IC 13-30-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007] : Sec. 3. (a) The department may waive up to one hundred percent (100%) of a civil penalty imposed on a business, **a state agency, or a political subdivision** for a minor violation of:

- (1) a requirement of environmental management laws;
- (2) a rule adopted by a board; or
- (3) any determination, permit, or order made or issued by the commissioner.

(b) The department may not waive any part of a civil penalty under this section if the violation:

- (1) endangers or causes damage to public health or the environment;
- (2) **is results from an intentional, willful, or criminal act, omission, or failure of a partner, officer, or director of the business, state agency, or political subdivision acting within the scope of that person's employment or office;**
- (3) is of a requirement for which the department has previously issued a notice or warning of violation, for this or a prior violation, to the business, **state agency, or political subdivision** required to correct the violation; or
- (4) is not corrected within ninety (90) days after the date the business, **state agency, or political subdivision** required to correct the violation notifies the department of the violation under subsection (c). The department may extend the ninety (90) day period for not more than an additional ninety (90) days.

(c) To seek a waiver of a civil penalty under this section, the business, **state agency, or political subdivision** required to correct the violation must submit to the department a written report of the violation for which a waiver is sought. The report must be submitted to the department before an inspection by the department that discloses the violation or the issuance of a notice or warning of violation.

(d) The boards may adopt rules to implement this section."

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Delete page 3.
and when so amended that said bill do pass.
(Reference is to SB 458 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 0.

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