



March 22, 2005

**ENGROSSED
HOUSE BILL No. 1653**

DIGEST OF HB 1653 (Updated March 21, 2005 10:38 am - DI 52)

Citations Affected: IC 4-4; IC 13-25.

Synopsis: Permit issuance and immunity from liability. Establishes the shovel ready site development center within the Indiana development finance authority to: (1) provide comprehensive information on permits required for business activities in Indiana; (2) work with other state government offices, departments, and administrative entities in assisting applicants in obtaining timely and efficient permit review and resolving of issues arising from permit review; (3) encourage the participation of federal and local government agencies in permit coordination; and (4) create programs to enable political subdivisions to obtain all or part of any permits to create sites that are ready for economic development. Provides that certain exceptions to liability under the federal Comprehensive Environmental Response, Compensation, and Liability Act are equally applicable to persons under Indiana law concerning hazardous substances.

Effective: Upon passage; July 1, 2005.

Wolkins

(SENATE SPONSOR — GARD)

January 19, 2005, read first time and referred to Committee on Environmental Affairs.
February 3, 2005, amended, reported — Do Pass.
February 10, 2005, read second time, ordered engrossed. Engrossed.
February 14, 2005, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

February 24, 2005, read first time and referred to Committee on Energy and Environmental Affairs.
March 21, 2005, reported favorably — Do Pass.

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EH 1653—LS 7832/DI 52+



March 22, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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ENGROSSED HOUSE BILL No. 1653



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

- 1 SECTION 1. IC 4-4-11-44 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: **Sec. 44. (a) As used in this section, "permit"**
- 4 **means any state agency permit, license, certificate, approval,**
- 5 **registration, or similar form of approval required by a statute or**
- 6 **administrative rule.**
- 7 **(b) The shovel ready site development center is established**
- 8 **within the authority. The center has the following duties:**
- 9 **(1) Providing comprehensive information on permits required**
- 10 **for business activities in Indiana, and making this information**
- 11 **available to any person.**
- 12 **(2) Working with other state government offices,**
- 13 **departments, and administrative entities in assisting**
- 14 **applicants in obtaining timely and efficient permit review and**
- 15 **the resolution of issues arising from permit review.**
- 16 **(3) Encouraging the participation of federal and local**
- 17 **government agencies in permit coordination.**

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1 SECTION 2. IC 4-4-11-45 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 45. (a) As used this section, "permit"**
4 **means any local, state, or federal agency permit, license, certificate,**
5 **approval, registration, or similar form of approval required by**
6 **statute, administrative rule, regulation, ordinance, or resolution.**

7 **(b) In addition to the duties set forth in section 44 of this**
8 **chapter, the shovel ready site development center shall, in**
9 **cooperation with political subdivisions, create programs to enable**
10 **political subdivisions to obtain all or part of any permits to create**
11 **sites that are ready for economic development.**

12 SECTION 3. IC 13-25-4-8 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. (a)** Except as
14 provided in subsection (b), (c), or (d), a person that is liable under
15 Section 107(a) of CERCLA (42 U.S.C. 9607(a)) for:

- 16 (1) the costs of removal or remedial action incurred by the
- 17 commissioner consistent with the national contingency plan;
- 18 (2) the costs of any health assessment or health effects study
- 19 carried out by or on behalf of the commissioner under Section
- 20 104(i) of CERCLA (42 U.S.C. 9604(i)); or
- 21 (3) damages for:
 - 22 (A) injury to;
 - 23 (B) destruction of; or
 - 24 (C) loss of;
- 25 natural resources of Indiana;

26 is liable, in the same manner and to the same extent, to the state under
27 this section.

28 (b) The exceptions provided by ~~Section 107(b)~~ **Sections 107(b),**
29 **107(q), and 107(r)** of CERCLA (42 U.S.C. 9607(b)) to liability
30 otherwise imposed by Section 107(a) of CERCLA (42 U.S.C. 9607(a))
31 are equally applicable to any liability otherwise imposed under
32 subsection (a).

33 (c) Notwithstanding any liability imposed by the environmental
34 management laws, a lender, a secured or unsecured creditor, or a
35 fiduciary is not liable under the environmental management laws, in
36 connection with the release or threatened release of a hazardous
37 substance from a facility unless the lender, the fiduciary, or creditor has
38 participated in the management of the hazardous substance at the
39 facility.

40 (d) Notwithstanding any liability imposed by the environmental
41 management laws, the liability of a fiduciary for a release or threatened
42 release of a hazardous substance from a facility that is held by the

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1 fiduciary in its fiduciary capacity may be satisfied only from the assets
2 held by the fiduciary in the same estate or trust as the facility that gives
3 rise to the liability.

4 (e) A political subdivision (as defined in IC 36-1-2-13) is not liable
5 to the state under this section for costs or damages associated with the
6 presence of a hazardous substance on, in, or at a property in which the
7 political subdivision acquired an interest in the property:

8 (1) under IC 6-1.1-24 or IC 6-1.1-25, bankruptcy, abandonment,
9 or other circumstances in which the political subdivision
10 involuntarily acquired an interest in the property; or

11 (2) to conduct remedial actions on a brownfield;
12 after the hazardous substance was disposed of or placed on, in, or at the
13 property.

14 SECTION 4. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1653, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 4-4-11-44 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 44. (a) As used in this section, "permit" means any state agency permit, license, certificate, approval, registration, or similar form of approval required by a statute or administrative rule.**

(b) The shovel ready site development center is established within the authority. The center has the following duties:

(1) Providing comprehensive information on permits required for business activities in Indiana, and making this information available to any person.

(2) Working with other state government offices, departments, and administrative entities in assisting applicants in obtaining timely and efficient permit review and the resolution of issues arising from permit review.

(3) Encouraging the participation of federal and local government agencies in permit coordination.

SECTION 2. IC 4-4-11-45 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 45. (a) As used this section, "permit" means any local, state, or federal agency permit, license, certificate, approval, registration, or similar form of approval required by statute, administrative rule, regulation, ordinance, or resolution.**

(b) In addition to the duties set forth in section 44 of this chapter, the shovel ready site development center shall, in cooperation with political subdivisions, create programs to enable political subdivisions to obtain all or part of any permits to create sites that are ready for economic development."

Page 2, delete lines 1 through 21.

Page 2, line 24, reset in roman "or".

Page 2, line 24, delete "or (e)".

Page 2, line 38, strike "Section 107(b)" and insert "**Sections 107(b), 107(q), and 107(r)**".

Page 3, delete lines 13 through 42.

Page 4, line 1, reset in roman "(e)".

Page 4, line 1, delete "(f)".

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1653 as introduced.)

WOLKINS, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred House Bill No. 1653, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1653 as printed February 4, 2005.)

GARD, Chairperson

Committee Vote: Yeas 6, Nays 0.

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