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# HOUSE BILL No. 1653

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-4-17; IC 13-25-4-8.

**Synopsis:** Permit issuance and immunity from liability. Renames the permit assistance center the shovel ready site development center. Provides that the center is within the economic development corporation instead of the department of commerce. Requires the center, in cooperation with political subdivisions, to create programs to enable political subdivisions to obtain all or part of any required federal, state, and local government permits to create sites that are ready for economic development. Provides that a real property owner is not responsible for the release or threatened release of a hazardous substance from the property if the owner demonstrates certain factors.

**Effective:** Upon passage; July 1, 2005.

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January 19, 2005, read first time and referred to Committee on Environmental Affairs.

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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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## 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 4-4-17-1 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter,  
3 "center" refers to the ~~permit assistance shovel ready site development~~  
4 center.

5 SECTION 2. IC 4-4-17-1.5 IS ADDED TO THE INDIANA CODE  
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
7 UPON PASSAGE]: **Sec. 1.5. As used in this chapter, "corporation"**  
8 **refers to the Indiana economic development corporation**  
9 **established by IC 4-1.5-3-1.**

10 SECTION 3. IC 4-4-17-3 IS AMENDED TO READ AS FOLLOWS  
11 [EFFECTIVE UPON PASSAGE]: Sec. 3. **Except as provided in**  
12 **section 5.5 of this chapter**, as used in this chapter, "permit" means any  
13 state agency permit, license, certificate, approval, registration, or  
14 similar form of approval required by a statute or administrative rule.

15 SECTION 4. IC 4-4-17-5 IS AMENDED TO READ AS FOLLOWS  
16 [EFFECTIVE UPON PASSAGE]: Sec. 5. The ~~permit assistance shovel~~  
17 **ready site development** center is established within the ~~department~~:



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**corporation.** 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 offices within the ~~department~~ **corporation** 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 5. IC 4-4-17-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (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 5 of this chapter, the 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.**

SECTION 6. IC 13-25-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. (a) Except as provided in subsection (b), (c), ~~or~~ (d), or (e), a person that is liable under Section 107(a) of CERCLA (42 U.S.C. 9607(a)) for:**

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

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

(b) The exceptions provided by Section 107(b) of CERCLA (42 U.S.C. 9607(b)) to liability otherwise imposed by Section 107(a) of CERCLA (42 U.S.C. 9607(a)) are equally applicable to any liability otherwise imposed under subsection (a).

(c) Notwithstanding any liability imposed by the environmental

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1 management laws, a lender, a secured or unsecured creditor, or a  
 2 fiduciary is not liable under the environmental management laws, in  
 3 connection with the release or threatened release of a hazardous  
 4 substance from a facility unless the lender, the fiduciary, or creditor has  
 5 participated in the management of the hazardous substance at the  
 6 facility.

7 (d) Notwithstanding any liability imposed by the environmental  
 8 management laws, the liability of a fiduciary for a release or threatened  
 9 release of a hazardous substance from a facility that is held by the  
 10 fiduciary in its fiduciary capacity may be satisfied only from the assets  
 11 held by the fiduciary in the same estate or trust as the facility that gives  
 12 rise to the liability.

13 **(e) Notwithstanding any liability imposed by the environmental**  
 14 **management laws, an owner of real property is not responsible for**  
 15 **the release or threatened release of a hazardous substance from a**  
 16 **site in or on the property if the owner demonstrates all the**  
 17 **following:**

18 (1) **The real property in or on which the site is located was**  
 19 **acquired by the owner after the disposal or placement of a**  
 20 **hazardous substance on, in, or at the site.**

21 (2) **The owner has exercised due care with respect to the**  
 22 **hazardous substance:**

23 (A) **taking into consideration the characteristics of the**  
 24 **hazardous substance; and**

25 (B) **in light of all relevant facts and circumstances.**

26 (3) **The owner took precautions against:**

27 (A) **foreseeable acts or omissions of any third party; and**

28 (B) **the consequences that could foreseeably result from**  
 29 **those acts or omissions.**

30 (4) **The owner:**

31 (A) **obtained actual knowledge of the release or threatened**  
 32 **release of a hazardous substance from the site when the**  
 33 **owner owned the real property; and**

34 (B) **did not transfer ownership of the property to another**  
 35 **person after obtaining that knowledge without disclosing**  
 36 **the knowledge to the other person.**

37 (5) **The owner has not, by act or omission, caused or**  
 38 **contributed to the release or threatened release of a**  
 39 **hazardous substance that is the subject of the response action**  
 40 **relating to the site.**

41 (6) **The only basis of potential liability for the owner is**  
 42 **ownership of the real property.**

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1            ~~(e)~~ (f) A political subdivision (as defined in IC 36-1-2-13) is not  
 2 liable to the state under this section for costs or damages associated  
 3 with the presence of a hazardous substance on, in, or at a property in  
 4 which the political subdivision acquired an interest in the property:  
 5            (1) under IC 6-1.1-24 or IC 6-1.1-25, bankruptcy, abandonment,  
 6            or other circumstances in which the political subdivision  
 7            involuntarily acquired an interest in the property; or  
 8            (2) to conduct remedial actions on a brownfield;  
 9 after the hazardous substance was disposed of or placed on, in, or at the  
 10 property.

11            SECTION 7. **An emergency is declared for this act.**

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