

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 154**

Citations Affected: IC 4-4-2.4-2; IC 4-22-2-37.1; IC 4-23-5.5; IC 13-14-9; IC 13-20-13-9.

Synopsis: Environmental law. Conference committee report for ESB 154. Allows an environmental rulemaking board to adopt an emergency rule to comply with a date provided by federal law. Establishes a special environmental rulemaking process for adoption or incorporation by reference of federal provisions or for technical or clarifying amendments. Requires the environmental quality service council to study environmental rulemaking and recycling issues. Changes the name of the Indiana recycling and energy development board to the Indiana recycling market development board (IRMDB), reduces membership from thirteen to nine, and adjusts the subject areas that must be represented by members. Provides for administration of the IRMDB by the division of pollution prevention of the department of environmental management instead of the lieutenant governor. Terminates the terms of the members of the former board, and directs the governor to appoint the IRMDB members before July 1, 2007. Deletes references to IRMDB activities concerning energy resources and substitutes activities concerning recycling and uses of solid waste. Adjusts the permitted uses of the waste tire management fund, eliminating use of the fund by the lieutenant governor. **(This conference committee report further adjusts the subject areas that must be represented by members of the IRMDB and deletes all provisions concerning regional sewer districts.)**

Effective: Upon passage; July 1, 2007.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 154 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 4-4-2.4-2, AS AMENDED BY SEA 526-2007,
- 3 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2007]: Sec. 2. The office of the lieutenant governor may adopt
- 5 rules under IC 4-22-2 to carry out the duties, purposes, and functions
- 6 of the office of the lieutenant governor relating to:
 - 7 (1) energy policy under section 1 of this chapter; **and**
 - 8 (2) the administration of the center for coal technology research
 - 9 under IC 21-47-4-2. ~~and~~
 - 10 (3) ~~the Indiana recycling and energy development board under~~
 - 11 ~~IC 4-23-5.5-6.5.~~
- 12 SECTION 2. IC 4-22-2-37.1, AS AMENDED BY SEA 551-2007,
- 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking
- 15 action resulting in any of the following rules:
 - 16 (1) An order adopted by the commissioner of the Indiana
 - 17 department of transportation under IC 9-20-1-3(d) or
 - 18 IC 9-21-4-7(a) and designated by the commissioner as an
 - 19 emergency rule.
 - 20 (2) An action taken by the director of the department of natural
 - 21 resources under IC 14-22-2-6(d) or IC 14-22-6-13.
 - 22 (3) An emergency temporary standard adopted by the

- 1 occupational safety standards commission under
 2 IC 22-8-1.1-16.1.
- 3 (4) An emergency rule adopted by the solid waste management
 4 board under IC 13-22-2-3 and classifying a waste as hazardous.
- 5 (5) A rule, other than a rule described in subdivision (6), adopted
 6 by the department of financial institutions under IC 24-4.5-6-107
 7 and declared necessary to meet an emergency.
- 8 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
 9 department of financial institutions and declared necessary to
 10 meet an emergency under IC 24-4.5-6-107.
- 11 (7) A rule adopted by the Indiana utility regulatory commission to
 12 address an emergency under IC 8-1-2-113.
- 13 (8) An emergency rule adopted by the state lottery commission
 14 under IC 4-30-3-9.
- 15 (9) A rule adopted under IC 16-19-3-5 that the executive board of
 16 the state department of health declares is necessary to meet an
 17 emergency.
- 18 (10) An emergency rule adopted by the Indiana finance authority
 19 under IC 8-21-12.
- 20 (11) An emergency rule adopted by the insurance commissioner
 21 under IC 27-1-23-7.
- 22 (12) An emergency rule adopted by the Indiana horse racing
 23 commission under IC 4-31-3-9.
- 24 (13) An emergency rule adopted by the air pollution control
 25 board, the solid waste management board, or the water pollution
 26 control board under IC 13-15-4-10(4) or to comply with a
 27 deadline required by **or other date provided by** federal law,
 28 provided:
- 29 (A) the variance procedures are included in the rules; and
 30 (B) permits or licenses granted during the period the
 31 emergency rule is in effect are reviewed after the emergency
 32 rule expires.
- 33 (14) An emergency rule adopted by the Indiana election
 34 commission under IC 3-6-4.1-14.
- 35 (15) An emergency rule adopted by the department of natural
 36 resources under IC 14-10-2-5.
- 37 (16) An emergency rule adopted by the Indiana gaming
 38 commission under *IC 4-32.2-3-3(b)*, IC 4-33-4-2, IC 4-33-4-3, or
 39 IC 4-33-4-14.
- 40 (17) An emergency rule adopted by the alcohol and tobacco
 41 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or
 42 IC 7.1-3-20-24.4.
- 43 (18) An emergency rule adopted by the department of financial
 44 institutions under IC 28-15-11.
- 45 (19) An emergency rule adopted by the office of the secretary of
 46 family and social services under IC 12-8-1-12.
- 47 (20) An emergency rule adopted by the office of the children's
 48 health insurance program under IC 12-17.6-2-11.
- 49 (21) An emergency rule adopted by the office of Medicaid policy
 50 and planning under IC 12-15-41-15.
- 51 (22) An emergency rule adopted by the Indiana state board of

- 1 animal health under IC 15-2.1-18-21.
- 2 (23) An emergency rule adopted by the board of directors of the
- 3 Indiana education savings authority under IC 21-9-4-7.
- 4 (24) An emergency rule adopted by the Indiana board of tax
- 5 review under IC 6-1.1-4-34 **(repealed)**.
- 6 (25) An emergency rule adopted by the department of local
- 7 government finance under IC 6-1.1-4-33 **(repealed)**.
- 8 (26) An emergency rule adopted by the boiler and pressure vessel
- 9 rules board under IC 22-13-2-8(c).
- 10 (27) An emergency rule adopted by the Indiana board of tax
- 11 review under IC 6-1.1-4-37(l) **(repealed)** or an emergency rule
- 12 adopted by the department of local government finance under
- 13 IC 6-1.1-4-36(j) **(repealed)** or IC 6-1.1-22.5-20.
- 14 (28) An emergency rule adopted by the board of the Indiana
- 15 economic development corporation under IC 5-28-5-8.
- 16 (29) A rule adopted by the department of financial institutions
- 17 under IC 34-55-10-2.5.
- 18 (30) *A rule adopted by the Indiana finance authority:*
- 19 *(A) under IC 8-15.5-7 approving user fees (as defined in*
- 20 *IC 8-15.5-2-10) provided for in a public-private agreement*
- 21 *under IC 8-15.5;*
- 22 *(B) under IC 8-15-2-17.2(a)(10):*
- 23 *(i) establishing enforcement procedures; and*
- 24 *(ii) making assessments for failure to pay required tolls;*
- 25 *(C) under IC 8-15-2-14(a)(3) authorizing the use of and*
- 26 *establishing procedures for the implementation of the*
- 27 *collection of user fees by electronic or other nonmanual*
- 28 *means; or*
- 29 *(D) to make other changes to existing rules related to a toll*
- 30 *road project to accommodate the provisions of a*
- 31 *public-private agreement under IC 8-15.5.*
- 32 (31) An emergency rule adopted by the board of the Indiana
- 33 health informatics corporation under IC 5-31-5-8.
- 34 (b) The following do not apply to rules described in subsection (a):
- 35 (1) Sections 24 through 36 of this chapter.
- 36 (2) IC 13-14-9.
- 37 (c) After a rule described in subsection (a) has been adopted by the
- 38 agency, the agency shall submit the rule to the publisher for the
- 39 assignment of a document control number. The agency shall submit the
- 40 rule in the form required by section 20 of this chapter and with the
- 41 documents required by section 21 of this chapter. The publisher shall
- 42 determine the *number of copies format* of the rule and other documents
- 43 to be submitted under this subsection.
- 44 (d) After the document control number has been assigned, the
- 45 agency shall submit the rule to the *secretary of state publisher* for
- 46 filing. The agency shall submit the rule in the form required by section
- 47 20 of this chapter and with the documents required by section 21 of this
- 48 chapter. The *secretary of state publisher* shall determine the *number*
- 49 *of copies format* of the rule and other documents to be submitted under
- 50 this subsection.
- 51 (e) Subject to section 39 of this chapter, the *secretary of state*

- 1 *publisher* shall:
- 2 (1) accept the rule for filing; and
- 3 (2) ~~file stamp and indicate electronically record~~ the date and time
- 4 that the rule is accepted. ~~on every duplicate original copy~~
- 5 ~~submitted.~~
- 6 (f) A rule described in subsection (a) takes effect on the latest of the
- 7 following dates:
- 8 (1) The effective date of the statute delegating authority to the
- 9 agency to adopt the rule.
- 10 (2) The date and time that the rule is accepted for filing under
- 11 subsection (e).
- 12 (3) The effective date stated by the adopting agency in the rule.
- 13 (4) The date of compliance with every requirement established by
- 14 law as a prerequisite to the adoption or effectiveness of the rule.
- 15 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,
- 16 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in
- 17 subsections (j), ~~and~~ (k), and (l), a rule adopted under this section
- 18 expires not later than ninety (90) days after the rule is accepted for
- 19 filing under subsection (e). Except for a rule adopted under subsection
- 20 (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by
- 21 adopting another rule under this section, but only for one (1) extension
- 22 period. The extension period for a rule adopted under subsection
- 23 (a)(28) may not exceed the period for which the original rule was in
- 24 effect. A rule adopted under subsection (a)(13) may be extended for
- 25 two (2) extension periods. Subject to subsection (j), a rule adopted
- 26 under subsection (a)(24), (a)(25), or (a)(27) may be extended for an
- 27 unlimited number of extension periods. Except for a rule adopted under
- 28 subsection (a)(13), for a rule adopted under this section to be effective
- 29 after one (1) extension period, the rule must be adopted under:
- 30 (1) sections 24 through 36 of this chapter; or
- 31 (2) IC 13-14-9;
- 32 as applicable.
- 33 (h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29)
- 34 expires on the earlier of the following dates:
- 35 (1) The expiration date stated by the adopting agency in the rule.
- 36 (2) The date that the rule is amended or repealed by a later rule
- 37 adopted under sections 24 through 36 of this chapter or this
- 38 section.
- 39 (i) This section may not be used to readopt a rule under IC 4-22-2.5.
- 40 (j) A rule described in subsection (a)(24) or (a)(25) expires not later
- 41 than January 1, 2006.
- 42 (k) A rule described in subsection (a)(28) expires on the expiration
- 43 date stated by the board of the Indiana economic development
- 44 corporation in the rule.
- 45 (l) *A rule described in subsection (a)(30) expires on the expiration*
- 46 *date stated by the Indiana finance authority in the rule.*
- 47 SECTION 3. IC 4-23-5.5-1, AS AMENDED BY P.L.1-2006,
- 48 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 49 JULY 1, 2007]: Sec. 1. As used in this chapter:
- 50 (1) "board" ~~means refers to~~ the Indiana recycling and energy
- 51 ~~market~~ development board created by this chapter; and

1 **(2) "division" refers to the division of pollution prevention**
 2 **established by IC 13-27-2-1.**

3 SECTION 4. IC 4-23-5.5-2, AS AMENDED BY P.L.1-2006,
 4 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2007]: Sec. 2. (a) The Indiana recycling ~~and energy market~~
 6 development board is created and constitutes a public instrumentality
 7 of the state. The exercise by the board of the powers conferred by this
 8 chapter is an essential governmental function.

9 (b) The board consists of ~~thirteen (13)~~ **nine (9)** members, one (1) of
 10 whom shall be the lieutenant governor or the lieutenant governor's
 11 designee and ~~twelve (12)~~ **eight (8)** of whom shall be appointed by the
 12 governor for four (4) year terms. The governor's appointees shall be
 13 chosen from among representatives of:

- 14 (1) the ~~coal~~ **waste management** industry;
- 15 (2) ~~other regulated and nonregulated energy related industries;~~
 16 **the recycling industry;**
- 17 (3) Indiana universities and colleges with expertise in
 - 18 (A) recycling research and development; ~~or~~
 - 19 (B) ~~energy research and development;~~
- 20 (4) ~~agriculture;~~
- 21 (5) ~~labor;~~
- 22 (6) ~~(4)~~ **industrial and commercial consumers of recycled**
 23 **feedstock;**
- 24 (7) ~~(5)~~ **environmental groups; and**
- 25 (8) ~~(6)~~ **private citizens with a special interest in**
 - 26 (A) recycling. ~~or~~
 - 27 (B) ~~energy resources development.~~

28 No more than ~~six (6)~~ **four (4)** appointive members shall be of the same
 29 political party.

30 (c) A vacancy in the office of an appointive member, other than by
 31 expiration, shall be filled in like manner as the original appointment for
 32 the remainder of the term of that retiring member. Appointed members
 33 may be removed by the governor for cause.

34 (d) The board shall have seven (7) ex officio advisory members as
 35 follows:

- 36 (1) The governor.
- 37 (2) The director of the department of natural resources.
- 38 (3) The commissioner of the department of environmental
 39 management.
- 40 (4) Two (2) members from the house of representatives of
 41 opposite political parties appointed by the speaker of the house of
 42 representatives for two (2) year terms.
- 43 (5) Two (2) members from the senate of opposite political parties
 44 appointed by the president pro tempore of the senate for two (2)
 45 year terms.

46 (e) The ~~office of the lieutenant governor division~~ shall serve as the
 47 staff of the board.

48 SECTION 5. IC 4-23-5.5-3 IS AMENDED TO READ AS
 49 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The governor
 50 shall appoint one (1) of the appointed members as chairman. ~~Seven (7)~~
 51 **Five (5)** members of the board shall constitute a quorum and the

1 affirmative vote of a majority of the membership shall be necessary for
 2 any action taken by the board. A vacancy in the membership of the
 3 board does not impair the right of the quorum to act.

4 (b) All the members of the board shall be reimbursed for their actual
 5 expenses incurred in the performance of their duties. The appointed
 6 members may also receive a per diem allowance as determined by the
 7 budget agency for attendance of board meetings and activities. All
 8 reimbursement for expenses shall be as provided by law.

9 SECTION 6. IC 4-23-5.5-4, AS AMENDED BY P.L.1-2006,
 10 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2007]: Sec. 4. **A representative appointed by the division,**
 12 **in consultation with the** lieutenant governor or the lieutenant
 13 governor's designee, shall be the chief administrative officer for the
 14 board and shall direct and supervise the administrative affairs and
 15 technical activities of the board in accordance with rules, regulations,
 16 and policies established by the board. The ~~lieutenant governor or the~~
 17 ~~lieutenant governor's designee~~ **division** may appoint the employees as
 18 the board may require and the agents or consultants as may be
 19 necessary for implementing this chapter. The ~~lieutenant governor or the~~
 20 ~~lieutenant governor's designee~~ **division** shall prepare an annual
 21 administrative budget for review by the budget agency and the budget
 22 committee.

23 SECTION 7. IC 4-23-5.5-6, AS AMENDED BY P.L.1-2006,
 24 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2007]: Sec. 6. (a) The board shall do the following:

26 (1) Adopt procedures for the regulation of its affairs and the
 27 conduct of its business.

28 (2) Meet at the offices of the ~~lieutenant governor~~ **division** on call
 29 of:

30 (A) the lieutenant governor or the lieutenant governor's
 31 designee; **or**

32 (B) **the commissioner of the department of environmental**
 33 **management or the commissioner's designee;**

34 at least once each calendar quarter. The meetings shall be upon
 35 ten (10) days written notification, shall be open to the public, and
 36 shall have official minutes recorded for public scrutiny.

37 (3) Report annually in an electronic format under IC 5-14-6 to the
 38 legislative council the projects in which it has participated and is
 39 currently participating with a complete list of expenditures for
 40 those projects.

41 (4) Annually prepare an administrative budget for review by the
 42 budget agency and the budget committee.

43 (5) Keep proper records of accounts and make an annual report of
 44 its condition to the state board of accounts.

45 (b) The board may request that the lieutenant governor conduct
 46 assessments of the opportunities and constraints presented by all
 47 sources of energy. The board shall encourage the balanced use of all
 48 sources of energy with primary emphasis on:

49 (1) the utilization of Indiana's high sulphur coal; and

50 (2) the utilization of Indiana's agricultural and forest resources
 51 and products for the production of alcohol fuel.

1 However, the board shall seek to avoid possible undesirable
2 consequences of total reliance on a single source of energy.

3 ~~(c)~~ (b) The board shall consider projects involving the creation of
4 the following:

5 (1) Markets for products made from recycled materials.

6 (2) New products made from recycled materials.

7 ~~(d)~~ (c) The board may promote, fund, and encourage programs
8 facilitating the development and ~~effective use of all sources of energy~~
9 **implementation of waste reduction, reuse, and recycling** in Indiana.

10 SECTION 8. IC 4-23-5.5-6.5, AS ADDED BY P.L.144-2006,
11 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2007]: Sec. 6.5. The ~~office of the lieutenant governor~~
13 **department of environmental management** may adopt rules under
14 IC 4-22-2 to carry out the duties, purposes, and functions of this
15 chapter.

16 SECTION 9. IC 4-23-5.5-7 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The board, upon
18 approval by the governor and the budget agency, may make the
19 following expenditures:

20 (1) Matching grants to federal, state, and local governmental
21 agencies for research and development of: ~~energy resources~~

22 (A) **recycling** projects; and

23 (B) recycling market development projects;
24 in Indiana.

25 (2) Matching grants to individuals, corporations, limited liability
26 companies, partnerships, educational institutions, and other
27 private sector groups for ~~energy resources~~ **recycling** and recycling
28 market research and development.

29 (3) Direct grants, loans, or loan guarantees to those individuals
30 and organizations specified in subdivision (1) or (2) of this
31 section.

32 (4) Contractual services for ~~energy resources~~ **recycling** and
33 recycling market research and development programs.

34 ~~(5) Purchase or lease land for energy resources and recycling~~
35 ~~market research and development projects.~~

36 ~~(6)~~ (5) Other projects and expenses consistent with this chapter.

37 SECTION 10. IC 4-23-5.5-9 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. The board may:

39 (1) on behalf of the state, receive and accept grants, gifts, and
40 contributions from public agencies, including the federal
41 government, and from private agencies and private sources,
42 including the Indiana business modernization and technology
43 corporation, for the purpose of researching and developing ~~energy~~
44 **resources recycling** within the state, and may administer such,
45 including contracting with other public and private organizations,
46 to carry out the purposes for which such grants, gifts, and
47 contributions were made;

48 (2) establish application forms and procedures for programs
49 consistent with this chapter;

50 (3) accept applications from private and public sources for

1 funding of programs consistent with this chapter;

2 (4) provide funding for studies, research projects, and other
3 activities required to assess the nature and extent of recycling
4 markets in Indiana and the nature and extent of ~~energy recycling~~
5 resources to meet the needs of the state; ~~including but not limited~~
6 ~~to coal and other fossil fuels, alcohol fuels produced from~~
7 ~~agricultural and forest products and resources, renewable, and~~
8 ~~other energy resources;~~

9 (5) deposit funds not currently needed to meet the obligations of
10 the board with the treasurer of state to the credit of the fund, or
11 invest in obligations as provided by IC 5-13-10.5; and

12 (6) participate in or sponsor programs, conferences, or seminars
13 aimed at assisting the state in promoting recycling market
14 development. ~~and the effective use of all sources of energy in~~
15 ~~Indiana.~~

16 SECTION 11. IC 13-14-9-1, AS AMENDED BY P.L.100-2006,
17 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 UPON PASSAGE]: Sec. 1. (a) Except as provided in ~~section sections~~
19 ~~8 and 14~~ of this chapter, this chapter applies to the following:

20 (1) A board.

21 (2) The underground storage tank financial assurance board
22 established by IC 13-23-11-1.

23 (b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, a
24 board may not adopt a rule except in accordance with this chapter.

25 SECTION 12. IC 13-14-9-8 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Unless a
27 board determines ~~under section 5(c)(2) of this chapter~~ that a proposed
28 rule should be subject to additional comments ~~or makes a~~
29 ~~determination described in subsection (f)~~, ~~sections 3 2 through 7~~
30 ~~and 4 sections 9 through 14~~ of this chapter do not apply to a
31 rulemaking action if the commissioner determines that:

32 (1) the proposed rule constitutes:

33 (A) an adoption or incorporation by reference of a federal law,
34 regulation, or rule that:

35 (i) is or will be applicable to Indiana; and

36 (ii) contains no amendments that have a substantive effect
37 on the scope or intended application of the federal law or
38 rule;

39 (B) a technical amendment with no substantive effect on an
40 existing Indiana rule; or

41 (C) a substantive amendment to an existing Indiana rule, the
42 primary and intended purpose of which is to clarify the
43 existing rule; and

44 (2) the proposed rule is of such nature and scope that there is no
45 reasonably anticipated benefit to the environment or the persons
46 referred to in section 7(a)(2) of this chapter from the following:

47 (A) Exposing the proposed rule to diverse public comment
48 under section 3 or 4 of this chapter.

49 (B) Affording interested or affected parties the opportunity to
50 be heard under section 3 or 4 of this chapter.

51 (C) Affording interested or affected parties the opportunity to

1 develop evidence in the record collected under sections 3 and
2 4 of this chapter.

3 (b) If the commissioner makes a determination under subsection (a),
4 the commissioner shall prepare written findings under this section. The
5 full text of the commissioner's written findings shall be

6 ~~(1) published in the Indiana Register before the public meeting~~
7 ~~held under section 5(a)(1) of this chapter; and~~

8 ~~(2) included in:~~

9 **(1) the notice of adoption of the proposed rule; and**
10 **(2) the written materials to be considered by the board at the**
11 **public meeting hearing held under this section. ~~5(a)(1) of this~~**
12 **chapter.**

13 **(c) The notice of adoption of a proposed rule under this section**
14 **must:**

15 **(1) be published in the Indiana Register; and**

16 **(2) include the following:**

17 **(A) Draft rule language that includes the language**
18 **described in subsection (a)(1).**

19 **(B) A written comment period of at least thirty (30) days.**

20 **(C) A notice of public hearing before the appropriate**
21 **board.**

22 **(d) The department shall include the following in the written**
23 **materials to be considered by the board at the public hearing**
24 **referred to in subsection (c):**

25 **(1) The full text of the proposed rule as most recently**
26 **prepared by the department.**

27 **(2) Written responses of the department to written comments**
28 **received during the comment period referred to in subsection**
29 **(c).**

30 **(3) The commissioner's findings under subsection (b).**

31 **(e) At the public hearing referred to in subsection (c), the board**
32 **may:**

33 **(1) adopt the proposed rule;**

34 **(2) reject the proposed rule;**

35 **(3) determine that additional public comment is necessary; or**

36 **(4) determine to reconsider the proposed rule at a subsequent**
37 **board meeting.**

38 **(f) If the board determines under subsection (e) that additional**
39 **public comment is necessary, the department shall publish a second**
40 **notice in accordance with section 4 of this chapter and complete the**
41 **rulemaking in accordance with this chapter.**

42 SECTION 13. IC 13-14-9-12 IS AMENDED TO READ AS
43 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The board may
44 reject a proposed rule under section 9(4) of this chapter if one (1) of the
45 following conditions exists:

46 (1) The following occurs or has occurred:

47 (A) under section 8 of this chapter, sections 3 and 4 of this
48 chapter did not apply to the proposed rule; and

49 (B) either:

50 (i) the board determines that necessary amendments to the
51 proposed rule will affect persons that reasonably require an

1 opportunity to comment under section 4 of this chapter,
 2 considering the criteria set forth in section ~~8(2)~~ **8(a)(2)** of
 3 this chapter; or
 4 (ii) the board determines that due to the fundamental or
 5 inherent structure or content of the proposed rule, the only
 6 reasonably anticipated method of developing a rule
 7 acceptable to the board is to require the department to
 8 redraft the rule and to obtain the public comments under
 9 section 4 of this chapter. ~~or~~

- 10 (2) The following occurs or has occurred:
 11 (A) the proposed rule was subject to sections 3 and 4 of this
 12 chapter; and
 13 (B) either:
 14 (i) the board makes a determination set forth in subdivision
 15 (1)(B)(i) or (1)(B)(ii); or
 16 (ii) the board determines that, due to a procedural or other
 17 defect in the implementation of the requirements under
 18 sections 3 and 4 of this chapter, an interested or affected
 19 party will be unfairly and substantially prejudiced if the
 20 public comment period under section 4 of this chapter is not
 21 again afforded and that no reasonable alternative method to
 22 obtain public comments is available to the interested or
 23 affected party other than the public comment period under
 24 section 4 of this chapter.

25 SECTION 14. IC 13-20-13-8, AS AMENDED BY P.L.1-2006,
 26 SECTION 202, IS AMENDED TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Except as provided in
 28 subsection (d)(2), (d)(3), (d)(6), and (d)(7), the waste tire management
 29 fund is established for the following purposes:

- 30 (1) **The department may use not more than** thirty-five percent
 31 (35%) of the money deposited in the fund each year ~~shall be used~~
 32 ~~to assist the department: for:~~
 33 (A) ~~in~~ the removal and disposal of waste tires from sites where
 34 the waste tires have been disposed of improperly; **and**
 35 (B) ~~in~~ operating the waste tire education program under
 36 section 15 of this chapter. ~~and~~
 37 ~~(C) to pay the expenses of administering the programs~~
 38 ~~described in clause (B).~~
 39 (2) **Sixty-five percent (65%) of The department may use the**
 40 **remaining** money deposited in the fund each year ~~shall be used~~
 41 ~~to: assist the lieutenant governor:~~
 42 (A) ~~in providing~~ **provide** grants and loans **under section 9(b)**
 43 **of this chapter to persons entities** involved in waste tire
 44 management activities; ~~under section 9 of this chapter;~~ and
 45 (B) ~~to~~ pay the expenses of administering the programs
 46 described in:
 47 (i) **subdivision (1)(B); and**
 48 (ii) clause (A).
 49 (b) The expenses of administering the fund shall be paid from
 50 money in the fund.

1 (c) Money in the fund at the end of a state fiscal year does not revert
2 to the state general fund.

3 (d) Sources of money for the fund are the following:

4 (1) Fees paid under section 4(a)(6) of this chapter and
5 IC 13-20-14-5(e).

6 (2) Fees collected under section 7 of this chapter. All money
7 deposited in the fund under this subdivision may be used by the
8 department for waste reduction, recycling, removal, or
9 remediation projects.

10 (3) Costs and damages recovered from a person **or other entity**
11 under section 14 of this chapter or IC 13-20-14-8. All money
12 deposited in the fund under this subdivision may be used by the
13 department for removal and remediation projects.

14 (4) Fees established by the general assembly for the purposes of
15 this chapter.

16 (5) Appropriations made by the general assembly.

17 (6) Gifts and donations intended for deposit in the fund. A gift or
18 donation deposited in the fund under this subdivision may be
19 specified to be entirely for the use of the department. ~~or the~~
20 ~~lieutenant governor.~~

21 (7) Civil penalties collected under IC 13-30-4 for violations of:

22 (A) this chapter;

23 (B) IC 13-20-14; and

24 (C) rules adopted under section 11 of this chapter and
25 IC 13-20-14-6.

26 All money deposited in the fund under this subdivision may be
27 used by the department for ~~waste tire removal and remediation~~
28 **eligible** projects.

29 SECTION 15. IC 13-20-13-9, AS AMENDED BY P.L.1-2006,
30 SECTION 203, IS AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The department may use
32 money in the fund to assist the department in:

33 (1) removing waste tires from sites where waste tires have been
34 disposed of improperly;

35 (2) properly managing waste tires;

36 (3) performing surveillance and enforcement activities used to
37 implement proper waste tire management; and

38 (4) conducting the waste tire education program under section 15
39 of this chapter.

40 (b) The ~~lieutenant governor department~~ may use money in the fund
41 to provide grants and loans to ~~persons entities~~ to establish and operate
42 programs involving the following:

43 (1) Recycling or reuse of waste tires.

44 (2) Using waste tires as a source of fuel.

45 (3) Developing markets for waste tires and products containing
46 recycled or reused waste tires.

47 (c) The ~~lieutenant governor department~~ may adopt rules under
48 IC 4-22-2 necessary to implement this section.

49 SECTION 16. [EFFECTIVE UPON PASSAGE] (a) **The terms of**
50 **the members of the Indiana recycling and energy development**
51 **board are terminated on June 30, 2007.**

1 **(b) Before July 1, 2007, the governor shall appoint the members**
2 **of the Indiana recycling market development board.**

3 **(c) This SECTION expires July 1, 2007.**

4 SECTION 17. [EFFECTIVE JULY 1, 2007] **(a) The environmental**
5 **quality service council established under IC 13-13-7 shall study and**
6 **make findings and recommendations concerning the following:**

7 **(1) Shortening the environmental rulemaking process for**
8 **rules adopted under IC 13 by considering the following:**

9 **(A) Other state and local agency rulemaking processes.**

10 **(B) Other state environmental rulemaking processes.**

11 **(C) Negotiated rulemaking.**

12 **(D) Steps and requirements of rulemaking.**

13 **(E) Professional boards and the relationship between**
14 **boards and the office of environmental adjudication.**

15 **(2) The goals, funding, markets, and structure of recycling in**
16 **Indiana.**

17 **(b) The environmental quality service council shall include its**
18 **findings and recommendations developed under subsection (a) in**
19 **the council's 2007 final report to the legislative council.**

20 **(c) This SECTION expires January 1, 2008.**

21 SECTION 18. **An emergency is declared for this act.**

(Reference is to ESB 154 as printed April 6, 2007.)

Conference Committee Report
on
Engrossed Senate Bill 154

Signed by:

Senator Gard
Chairperson

Representative Dvorak

Senator Tallian

Representative Wolkins

Senate Conferees

House Conferees