



February 22, 2010

**ENGROSSED  
SENATE BILL No. 128**

DIGEST OF SB 128 (Updated February 18, 2010 9:38 am - DI 116)

**Citations Affected:** IC 10-14; noncode.

**Synopsis:** Emergency management. Includes fire protection districts and fire protection territories as units for purposes of participation in the statewide emergency mutual aid program under certain circumstances. Provides that a county, municipality, township, fire protection district, or fire protection territory that participates in the program and that receives disaster assistance from another participating unit shall reimburse the assisting unit for certain expenses to the extent the expenses are not covered by reimbursements. Provides that the office of Medicaid policy and planning shall apply, before September 1, 2010, to the United States Department of Health and Human Services for approval to include, as part of the state's Medicaid state plan, authorization to temporarily place certain special needs individuals in a health facility without performing a health facility preadmission screening test during an emergency. Provides that if the office of Medicaid policy and planning receives approval from the United States Department of Health and Human Services the office shall include language in the state's Medicaid plan to allow for the temporary placement of certain special needs individuals.

**Effective:** Upon passage; July 1, 2010.

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**Wyss, Arnold**

(HOUSE SPONSORS — TINCHER, RUPPEL, BARNES)

January 5, 2010, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

January 12, 2010, reported favorably — Do Pass.

January 19, 2010, read second time, amended, ordered engrossed.

January 20, 2010, engrossed.

January 21, 2010, read third time, passed. Yeas 50, nays 0.

**HOUSE ACTION**

February 2, 2010, read first time and referred to Committee on Veterans Affairs and Public Safety.

February 22, 2010, amended, reported — Do Pass.

ES 128—LS 6343/DI 103+



February 22, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

**ENGROSSED  
SENATE BILL No. 128**



A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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

- 1 SECTION 1. IC 10-14-3-10.6 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10.6. (a) As used in this
- 3 section, "participating unit" refers to a unit that does not opt out under
- 4 subsection (c) from participating in the statewide mutual aid program.
- 5 (b) As used in this section, "unit" ~~has the meaning set forth~~ **means**
- 6 **the following:**
- 7 (1) **A unit (as defined in IC 36-1-2-23).**
- 8 (2) **A fire protection district established under IC 36-8-11.**
- 9 (3) **A provider unit (as defined in IC 36-8-19-3) acting on**
- 10 **behalf of a fire protection territory established under**
- 11 **IC 36-8-19.**
- 12 (c) A unit may choose not to participate in the statewide mutual aid
- 13 program if the unit:
- 14 (1) adopts an ordinance or a resolution declaring that the unit will
- 15 not participate in the statewide mutual aid program; and
- 16 (2) provides a copy of the ordinance or resolution to:
- 17 (A) the local emergency management organization that serves

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- 1 the unit; and
- 2 (B) the department.
- 3 (d) Each participating unit shall establish an incident management
- 4 system and a unified command system to be used in a response to a
- 5 disaster or an emergency.
- 6 (e) A participating unit may request the assistance of at least one (1)
- 7 other participating unit to:
- 8 (1) manage disaster response or recovery; or
- 9 (2) conduct disaster response or recovery related exercises,
- 10 testing, or training.
- 11 (f) A request for assistance to a participating unit under subsection
- 12 (e) shall be made by and to the executive of the unit or the executive's
- 13 authorized representative. A request may be oral or in writing. A
- 14 written request shall be made on forms developed by the department.
- 15 An oral request shall be confirmed in writing not later than twenty-four
- 16 (24) hours after the oral request is made.
- 17 (g) A request must include the following information:
- 18 (1) A description of the disaster response and recovery functions
- 19 for which assistance is needed, including the following:
- 20 (A) Fire.
- 21 (B) Law enforcement.
- 22 (C) Emergency medical.
- 23 (D) Transportation.
- 24 (E) Communications.
- 25 (F) Public works and engineering.
- 26 (G) Building inspection.
- 27 (H) Planning and information assistance.
- 28 (I) Mass care.
- 29 (J) Resource support.
- 30 (K) Health and other medical services.
- 31 (L) Search and rescue.
- 32 (2) The amount and type of services, equipment, supplies,
- 33 materials, personnel, and other resources needed and a reasonable
- 34 estimate of the length of time they will be needed.
- 35 (3) The specific place and time for staging of the assisting
- 36 participating unit's provision of assistance and a point of contact
- 37 at that location.
- 38 (h) A participating unit that is requested to render assistance shall
- 39 take the necessary action to provide and make available the requested
- 40 services, equipment, supplies, materials, personnel, and other
- 41 resources.
- 42 (i) A participating unit's obligation to provide assistance is subject

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1 to the following restrictions:

2 (1) A participating unit's request to receive assistance is effective  
3 only:

4 (A) upon declaration of a local disaster emergency by the  
5 executive officer of the unit under section ~~23~~ 29 of this  
6 chapter; or

7 (B) upon the commencement of the exercises, testing, or  
8 training.

9 (2) The assistance shall continue as long as:

10 (A) the state of emergency remains in effect and the loaned  
11 resources are required by the receiving participating unit or the

12 loaned resources remain in the receiving participating unit; or

13 (B) the exercises, testing, or training is in progress.

14 (3) The participating unit rendering the assistance may withhold  
15 resources or recall loaned resources to the extent necessary to  
16 provide for the participating unit's own reasonable protection.

17 (4) Emergency forces providing assistance shall continue under  
18 the command and control of their regular leaders, but  
19 operationally those forces shall be under the control of the  
20 incident commander or unified commander designated by the  
21 requesting participating unit.

22 SECTION 2. IC 10-14-3-10.7 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10.7. (a) As used in this  
24 section, "participating unit" has the meaning set forth in section 10.6(a)  
25 of this chapter.

26 (b) Each participating unit shall provide for the payment of  
27 compensation and benefits to:

28 (1) an injured member; and

29 (2) a representative of a deceased member;

30 of the participating unit's emergency forces if the member is injured or  
31 killed while rendering assistance under section 10.6 of this chapter in  
32 the same manner and on the same terms as if the injury or death were  
33 sustained while the member was rendering assistance for or within the  
34 member's own unit. Expenses incurred under this subsection are not  
35 reimbursable under subsection (c).

36 (c) A participating unit rendering assistance for disaster response or  
37 recovery to another participating unit under section 10.6 of this chapter  
38 shall be reimbursed by the participating unit receiving the assistance  
39 for the following:

40 (1) A loss of, damage to, or expense incurred in the operation of  
41 any equipment in answering the request for assistance, **to the**  
42 **extent the loss, damage, or expense is not covered by a**

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**reimbursement from insurance to the participating unit rendering assistance.**

(2) An expense incurred in the provision of a service in answering the request for assistance, **to the extent the expense is not covered by a reimbursement from insurance to the participating unit rendering assistance.**

(3) An expense incurred in answering the request for assistance, **to the extent the expense is not covered by a reimbursement from insurance to the participating unit rendering assistance.**

**(4) An amount equal to the deductible portion of an insurance policy used to reimburse all or part of an expense or other cost described in subdivisions (1) through (3).**

(d) Except as provided by an agreement entered into under subsection (e), the following labor and equipment reimbursement rates apply to reimbursement under subsection (c):

(1) The labor reimbursement rates are as follows:  
(A) The straight time costs of the labor force of the participating unit rendering assistance shall be reimbursed at the normal pay rates for responding personnel.

(B) The overtime costs of the labor force of the participating unit rendering assistance shall be reimbursed at one hundred fifty percent (150%) of the normal pay rates for the responding personnel if it is the normal practice of the requesting unit to pay these personnel overtime.

(2) The equipment reimbursement rates are the lesser of the following:

(A) The rates for equipment costs reimbursement established by the Federal Emergency Management Agency or its successor agency.

(B) The equipment costs established by the participating unit rendering assistance.

(e) At least two (2) participating units may enter into agreements establishing a different allocation of loss, damage, expense, or costs among themselves than that specified in subsections (c) and (d).

(f) Officers and employees of a participating unit rendering assistance to another participating unit under this section shall be considered agents of the requesting **participating** unit for the purpose of tort liability and immunity.

(g) This section does not prevent any participating unit from entering into a mutual aid or other agreement with another unit, **fire protection district, or provider unit (as defined in IC 36-8-19-3) acting on behalf of a fire protection territory**, or affect any other

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1 agreement to which a unit, a **fire protection district, or a fire**  
2 **protection territory** is a party, including an agreement entered into  
3 under this chapter or IC 36-1-7.

4 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) **As used in this**  
5 **SECTION, "office" refers to the office of Medicaid policy and**  
6 **planning established by IC 12-8-6-1.**

7 (b) **As used in this SECTION, "special needs individual" means**  
8 **an individual who has a disability due to a health impairment that**  
9 **substantially affects at least one (1) major life activity of the**  
10 **individual and that makes the individual dependent on assistance**  
11 **by another person.**

12 (c) **Before September 1, 2010, the office shall apply to the United**  
13 **States Department of Health and Human Services for approval to**  
14 **include, as part of the state's Medicaid state plan, authorization to**  
15 **temporarily place a special needs individual in a health facility**  
16 **without performing a health facility preadmission screening test**  
17 **during an emergency.**

18 (d) **If the office receives approval from the United States**  
19 **Department of Health and Human Services under subsection (b),**  
20 **the office shall file an affidavit with the governor attesting that the**  
21 **application submitted under this SECTION has been approved and**  
22 **is in effect. The office shall file the affidavit under this subsection**  
23 **not later than five (5) days after the office is notified of the**  
24 **approval.**

25 (e) **If the office receives approval from the United States**  
26 **Department of Health and Human Services for the request made**  
27 **under this SECTION and the office has filed that affidavit under**  
28 **subsection (d), the office shall include language in the state's**  
29 **Medicaid plan to allow for the temporary placement described in**  
30 **subsection (c).**

31 (f) **This SECTION expires December 31, 2010.**

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

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 128, 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 Senate Bill 128 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 128 be amended to read as follows:

Page 3, line 41, delete "insurance." and insert "**a reimbursement from:**

- (A) insurance to the participating unit rendering assistance;
- (B) the Federal Emergency Management Agency; or
- (C) the agency."

Page 4, line 2, delete "insurance." and insert "**a reimbursement from:**

- (A) insurance to the participating unit rendering assistance;
- (B) the Federal Emergency Management Agency; or
- (C) the agency."

Page 4, line 4, delete "insurance." and insert "**a reimbursement from:**

- (A) insurance to the participating unit rendering assistance;
- (B) the Federal Emergency Management Agency; or
- (C) the agency."

(Reference is to SB 128 as printed January 13, 2010.)

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred Senate Bill 128, 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, line 9, after "A" insert **"provider unit (as defined in IC 36-8-19-3) acting on behalf of a"**.

Page 3, line 41, delete "from:" and insert **"from insurance to the participating unit rendering assistance."**

Page 3, delete line 42.

Page 4, delete lines 1 through 3.

Page 4, line 6, delete "from:" and insert **"from insurance to the participating unit rendering assistance."**

Page 4, delete lines 7 through 10.

Page 4, line 13, delete "from:" and insert **"from insurance to the participating unit rendering assistance."**

Page 4, delete lines 14 through 17.

Page 5, line 7, after "district, or" insert **"provider unit (as defined in IC 36-8-19-3) acting on behalf of a"**.

Page 5, after line 10, begin a new paragraph and insert:

**"SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

**(b) As used in this SECTION, "special needs individual" means an individual who has a disability due to a health impairment that substantially affects at least one (1) major life activity of the individual and that makes the individual dependent on assistance by another person.**

**(c) Before September 1, 2010, the office shall apply to the United States Department of Health and Human Services for approval to include, as part of the state's Medicaid state plan, authorization to temporarily place a special needs individual in a health facility without performing a health facility preadmission screening test during an emergency.**

**(d) If the office receives approval from the United States Department of Health and Human Services under subsection (b), the office shall file an affidavit with the governor attesting that the application submitted under this SECTION has been approved and is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified of the approval.**

**(e) If the office receives approval from the United States**

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**Department of Health and Human Services for the request made under this SECTION and the office has filed that affidavit under subsection (d), the office shall include language in the state's Medicaid plan to allow for the temporary placement described in subsection (c).**

**(f) This SECTION expires December 31, 2010.**

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 128 as reprinted January 20, 2010.)

TINCHER, Chair

Committee Vote: yeas 9, nays 0.

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