



Reprinted
January 20, 2010

SENATE BILL No. 128

DIGEST OF SB 128 (Updated January 19, 2010 2:52 pm - DI 103)

Citations Affected: IC 10-14.

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.

Effective: July 1, 2010.

Wyss, Arnold

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.

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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.

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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 fire protection territory established under IC 36-8-19.**
10 (c) A unit may choose not to participate in the statewide mutual aid
11 program if the unit:
12 (1) adopts an ordinance or a resolution declaring that the unit will
13 not participate in the statewide mutual aid program; and
14 (2) provides a copy of the ordinance or resolution to:
15 (A) the local emergency management organization that serves
16 the unit; and
17 (B) the department.



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

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1 only:

2 (A) upon declaration of a local disaster emergency by the

3 executive officer of the unit under section ~~23~~ 29 of this

4 chapter; or

5 (B) upon the commencement of the exercises, testing, or

6 training.

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

8 (A) the state of emergency remains in effect and the loaned

9 resources are required by the receiving participating unit or the

10 loaned resources remain in the receiving participating unit; or

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

12 (3) The participating unit rendering the assistance may withhold

13 resources or recall loaned resources to the extent necessary to

14 provide for the participating unit's own reasonable protection.

15 (4) Emergency forces providing assistance shall continue under

16 the command and control of their regular leaders, but

17 operationally those forces shall be under the control of the

18 incident commander or unified commander designated by the

19 requesting participating unit.

20 SECTION 2. IC 10-14-3-10.7 IS AMENDED TO READ AS

21 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10.7. (a) As used in this

22 section, "participating unit" has the meaning set forth in section 10.6(a)

23 of this chapter.

24 (b) Each participating unit shall provide for the payment of

25 compensation and benefits to:

26 (1) an injured member; and

27 (2) a representative of a deceased member;

28 of the participating unit's emergency forces if the member is injured or

29 killed while rendering assistance under section 10.6 of this chapter in

30 the same manner and on the same terms as if the injury or death were

31 sustained while the member was rendering assistance for or within the

32 member's own unit. Expenses incurred under this subsection are not

33 reimbursable under subsection (c).

34 (c) A participating unit rendering assistance for disaster response or

35 recovery to another participating unit under section 10.6 of this chapter

36 shall be reimbursed by the participating unit receiving the assistance

37 for the following:

38 (1) A loss of, damage to, or expense incurred in the operation of

39 any equipment in answering the request for assistance, **to the**

40 **extent the loss, damage, or expense is not covered by a**

41 **reimbursement from:**

42 (A) **insurance to the participating unit rendering**

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- assistance;
- (B) the Federal Emergency Management Agency; or**
- (C) the agency.**
- (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:**
 - (A) insurance to the participating unit rendering assistance;**
 - (B) the Federal Emergency Management Agency; or**
 - (C) the agency.**
- (3) An expense incurred in answering the request for assistance, **to the extent the expense is not covered by a reimbursement from:**
 - (A) insurance to the participating unit rendering assistance;**
 - (B) the Federal Emergency Management Agency; or**
 - (C) the agency.**
- (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).

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1 (f) Officers and employees of a participating unit rendering
2 assistance to another participating unit under this section shall be
3 considered agents of the requesting **participating** unit for the purpose
4 of tort liability and immunity.
5 (g) This section does not prevent any participating unit from
6 entering into a mutual aid or other agreement with another unit, **fire**
7 **protection district, or fire protection territory**, or affect any other
8 agreement to which a unit, **a fire protection district, or a fire**
9 **protection territory** is a party, including an agreement entered into
10 under this chapter or IC 36-1-7.

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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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