

January 23, 1998

SENATE BILL No. 286

DIGEST OF SB0286 (Updated January 21, 1998 5:58 pm - DI 87)

Citations Affected: IC 4-22-2.5; IC 13-14-9.5.

Synopsis: Expiration of administrative rules. Provides that an administrative rule expires on July 1 of the year after the rule's adoption unless the general assembly continues the administrative rule by statute. (Current law provides that a rule expires January 1 of the seventh year after the rule's adoption.) Provides that administrative rules of the department of revenue and the state board of tax commissioners expire and certain rules adopted under federal mandates expire in the same way as other administrative rules. Provides that an agency may not readopt an administrative rule that expires unless the
(Continued next page)

Effective: July 1, 1998.

Miller

January 8, 1998, read first time and referred to Committee on Governmental and Regulatory Affairs.
January 22, 1998, reported favorably — Do Pass.

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Digest Continued

general assembly authorizes the agency to readopt the rule. Provides that a rule the general assembly has continued by statute or that is authorized by the general assembly for readoption does not expire on July 1 of the year after the continued or readopted rule takes effect unless the general assembly specifies that the continued or readopted rule expires or unless the agency subsequently amends the continued or readopted rule. Provides that an administrative rule in force on December 31, 1997, expires not later than July 1, 2000. Repeals statutes that authorize: (1) agencies to readopt expired rules through the administrative rulemaking process; or (2) the governor to extend the expiration date of a rule.

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January 23, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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SENATE BILL No. 286

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

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

- 1 SECTION 1. IC 4-22-2.5-1, AS ADDED BY P.L.17-1996,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 1. (a) This chapter does not apply to the
4 following:
5 (1) Rules adopted by the department of state revenue;
6 (2) Rules adopted by the state board of tax commissioners;
7 (3) (1) Rules adopted under IC 13-14-9 by the department of
8 environmental management or a board that has rulemaking
9 authority under IC 13.
10 (4) (2) A rule that incorporates a federal regulation by reference
11 or adopts under a federal mandate a federal regulation in its
12 entirety without ~~substantive any~~ additions.
13 (b) Except as provided in subsection (c), and notwithstanding
14 section 2(a) of this chapter, a rule that the general assembly:
15 (1) continues under section 2(b) of this chapter; or

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1 **(2) authorizes an agency to readopt under section 3(a) of this**
 2 **chapter;**

3 **does not expire under this chapter.**

4 **(c) A rule described in subsection (b) is subject to this chapter**
 5 **only if any of the following applies:**

6 **(1) The general assembly provides that the continued or**
 7 **readopted rule is subject to this chapter.**

8 **(2) The agency amends the rule after the rule is continued or**
 9 **readopted.**

10 SECTION 2. IC 4-22-2.5-2, AS ADDED BY P.L.17-1996,
 11 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 1998]: Sec. 2. (a) Except as provided in ~~subsection~~
 13 **subsections (b) and (c)**, an administrative rule adopted under
 14 IC 4-22-2 expires ~~January~~ **July 1** of the ~~seventh~~ year after the year in
 15 which the rule takes effect, unless the rule **or the statute under which**
 16 **the rule is adopted** contains an earlier expiration date.

17 **(b) A rule does not expire under this section if the general**
 18 **assembly authorizes continuation of the rule by statute. An agency**
 19 **may amend or repeal a rule continued by the general assembly.**

20 ~~(b)~~ (c) An administrative rule that:

21 (1) was adopted under IC 4-22-2; and

22 (2) is in force on December 31, ~~1995~~; **1997**;

23 expires not later than ~~January 1, 2002~~; **July 1, 2000**.

24 SECTION 3. IC 4-22-2.5-3, AS ADDED BY P.L.17-1996,
 25 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 1998]: Sec. 3. (a) An agency ~~that wishes to~~ **may not** readopt
 27 a rule that is subject to expiration under this chapter ~~must follow the~~
 28 ~~procedure for adoption of administrative rules under IC 4-22-2.~~ **unless**
 29 **the general assembly specifically authorizes readoption of the rule**
 30 **by statute.**

31 ~~(b)~~ An agency may adopt a rule under IC 4-22-2 in anticipation of
 32 a rule's expiration under this chapter:

33 ~~(c)~~ **(b)** An agency may not use IC 4-22-2-37.1 to readopt a rule that
 34 is subject to expiration under this chapter.

35 SECTION 4. IC 13-14-9.5-1, AS ADDED BY P.L.17-1996,
 36 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 1998]: Sec. 1. **(a)** This chapter does not apply to a rule that
 38 incorporates a federal regulation by reference or adopts under a federal
 39 mandate a federal regulation in its entirety without ~~substantive~~ **any**
 40 additions.

41 **(b) Except as provided in subsection (c), and notwithstanding**
 42 **section 2(a) of this chapter, a rule that the general assembly:**



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1 (1) continues under section 2(b) of this chapter; or
 2 (2) authorizes the department or a board to readopt under
 3 section 3(a) of this chapter;
 4 **does not expire under this chapter.**

5 (c) A rule described in subsection (b) is subject to this chapter
 6 **only if any of the following applies:**

7 (1) The general assembly provides that the continued or
 8 readopted rule is subject to this chapter.

9 (2) The department or board amends the rule after the rule is
 10 continued or readopted.

11 SECTION 5. IC 13-14-9.5-2, AS ADDED BY P.L.17-1996,
 12 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 1998]: Sec. 2. (a) Except as provided in ~~subsection~~
 14 **subsections (b) and (c)**, an administrative rule adopted under
 15 IC 13-14-9 expires ~~January~~ **July** 1 of the ~~seventh~~ year after the year in
 16 which the rule takes effect, unless the rule **or the statute under which**
 17 **the rule is adopted** contains an earlier expiration date.

18 (b) **A rule does not expire under this section if the general**
 19 **assembly authorizes continuation of the rule by statute. The**
 20 **department or a board may amend or repeal a rule continued by**
 21 **the general assembly.**

22 ~~(b)~~ (c) An administrative rule that:

23 (1) was adopted under a provision of IC 13 that has been repealed
 24 by a recodification of IC 13; and

25 (2) is in force on December 31, ~~1995;~~ **1997;**

26 **expires not later than ~~January 1, 2002;~~ July 1, 2000.**

27 SECTION 6. IC 13-14-9.5-3, AS ADDED BY P.L.17-1996,
 28 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 1998]: Sec. 3. (a) The department or a board that has
 30 rulemaking authority under this title may ~~adopt a rule under IC 13-14-9~~
 31 **in anticipation of a rule's not readopt a rule that is subject to**
 32 **expiration under this chapter unless the general assembly specifically**
 33 **authorizes readoption of the rule by statute.**

34 (b) ~~Except as provided in section 5 of this chapter,~~ The department
 35 or a board that has rulemaking authority under this title may not use
 36 emergency rule procedures to readopt a rule that is subject to expiration
 37 under this chapter.

38 SECTION 7. IC 13-14-9.5-6, AS ADDED BY P.L.17-1996,
 39 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 1998]: Sec. 6. ~~Except as provided in section 4(a) of this~~
 41 **chapter,** The publisher shall remove all rules that have expired under
 42 this chapter from the Indiana Administrative Code.

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1 SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE
2 JULY 1, 1998]: IC 4-22-2.5-4; IC 4-22-2.5-5; IC 13-14-9.5-4;
3 IC 13-14-9.5-5.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill 286, 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 286 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 5, Nays 4.

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