



Reprinted
April 6, 2001

ENGROSSED HOUSE BILL No. 2147

DIGEST OF HB 2147 (Updated April 5, 2001 3:18 PM - DI 87)

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

Synopsis: Provides that the automatic expiration of an administrative rule on January 1 of the seventh year after the year in which the rule takes effect does not apply to: (1) a rule that is required to receive or maintain delegation, primacy, or approval for state implementation or operation of a federally mandated program; or (2) a rule that is required to begin or continue receiving federal funding for the implementation or operation of a program. Requires certain boards dealing with environmental issues to have a public comment period and a public hearing concerning the rules that do not automatically expire in the seventh year after the effective date of the rule. Requires the board to direct the department of environmental management as to whether additional rulemaking actions must be initiated. Requires a state agency to readopt a rule before January 1 of the seventh year after the year in which the rule takes effect. Provides that the date for the automatic expiration of an administrative rule is extended each time that the rule is amended and that the rule, as amended, expires on January 1 of the seventh year after the year in which the amendment takes effect.

Effective: Upon passage; July 1, 2001.

Moses

(SENATE SPONSOR — KENLEY)

January 17, 2001, read first time and referred to Committee on Rules and Legislative Procedures.

February 26, 2001, amended, reported — Do Pass.

March 5, 2001, read second time, ordered engrossed. Engrossed.

March 6, 2001, read third time, passed. Yeas 59, nays 36.

SENATE ACTION

March 15, 2001, read first time and referred to Committee on Governmental and Regulatory Affairs.

March 29, 2001, amended, reported favorably — Do Pass.

April 5, 2001, read second time, amended, ordered engrossed.

EH 2147—LS 6574/DI 13+



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First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

ENGROSSED HOUSE BILL No. 2147

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

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

1 SECTION 1. IC 4-22-2.5-1.1 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 1.1. (a) This section applies**
4 **to the following:**

5 (1) **A rule that is required to receive or maintain:**

6 (A) **delegation;**

7 (B) **primacy; or**

8 (C) **approval;**

9 **for state implementation or operation of a program**
10 **established under federal law.**

11 (2) **A rule that is required to begin or continue receiving**
12 **federal funding for the implementation or operation of a**
13 **program.**

14 (b) **A rule described in subsection (a) does not expire under this**
15 **chapter. However, an agency shall readopt a rule described in this**
16 **section before January 1 of the seventh year after the year in which**
17 **the rule takes effect as set forth in this chapter.**

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1 SECTION 2. IC 4-22-2.5-2 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Except as
 3 provided in subsection (b) **or section 1.1 of this chapter**, an
 4 administrative rule adopted under IC 4-22-2 expires January 1 of the
 5 seventh year after the year in which the rule takes effect, unless the rule
 6 contains an earlier expiration date. **The expiration date of a rule**
 7 **under this section is extended each time that a rule amending an**
 8 **unexpired rule takes effect. The rule, as amended, expires on**
 9 **January 1 of the seventh year after the year in which the**
 10 **amendment takes effect.**

11 (b) An administrative rule that:

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

13 (2) is in force on December 31, 1995; **and**

14 **(3) is not amended by a rule that takes effect after December**
 15 **31, 1995, and before January 1, 2002;**

16 expires not later than January 1, 2002.

17 SECTION 3. IC 13-14-9.5-1.1 IS ADDED TO THE INDIANA
 18 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 19 **[EFFECTIVE UPON PASSAGE]: Sec. 1.1. (a) This section applies**
 20 **to the following:**

21 **(1) A rule that is required to receive or maintain:**

22 **(A) delegation;**

23 **(B) primacy; or**

24 **(C) approval;**

25 **for state implementation or operation of a program**
 26 **established under federal law.**

27 **(2) A rule that is required to begin or continue receiving**
 28 **federal funding for the implementation or operation of a**
 29 **program.**

30 **(b) A rule described in subsection (a) does not expire under this**
 31 **chapter.**

32 **(c) In the seventh year after the effective date of a rule or an**
 33 **amendment to a rule described in subsection (a), the department**
 34 **shall publish a notice in the Indiana Register. The notice may**
 35 **contain a list of several rules that have been effective for seven (7)**
 36 **years. A separate notice must be published for each board with**
 37 **rulemaking authority. A notice under this subsection must provide**
 38 **for the following:**

39 **(1) A written comment period of at least thirty (30) days.**

40 **(2) A request for comments on specific rules that should be**
 41 **reviewed through the regular rulemaking process under**
 42 **IC 13-14-9.**

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1 **(3) A notice of public hearing before the appropriate board.**

2 **(d) The department shall:**

3 **(1) prepare responses to all comments received during the**
 4 **comment period; and**

5 **(2) provide all comments and responses to the board during**
 6 **the public board hearing;**

7 **described in subsection (c).**

8 **(e) The board, after considering the written comments and**
 9 **responses, as well as testimony at the public hearing described in**
 10 **subsection (c), shall direct the department on whether additional**
 11 **rulemaking actions must be initiated to address concerns raised to**
 12 **the board.**

13 **(f) For the rules described in subsection (a) that are effective on**
 14 **or before July 1, 2001, the notice described in subsection (c) shall**
 15 **be published in the Indiana Register before December 31, 2008.**

16 SECTION 4. IC 13-14-9.5-2 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Except as
 18 provided in subsection (b) **or section 1.1 of this chapter**, an
 19 administrative rule adopted under IC 13-14-9 expires January 1 of the
 20 seventh year after the year in which the rule takes effect, unless the rule
 21 contains an earlier expiration date. **The expiration date of a rule**
 22 **under this section is extended each time that a rule amending an**
 23 **unexpired rule takes effect. The rule, as amended, expires on**
 24 **January 1 of the seventh year after the year in which the**
 25 **amendment takes effect.**

26 (b) An administrative rule that:

27 (1) was adopted under a provision of IC 13; that has been
 28 repealed by a recodification of IC 13; ~~and~~

29 (2) is in force on December 31, 1995; **and**

30 **(3) is not amended by a rule that takes effect after December**
 31 **31, 1995, and before January 1, 2002;**

32 **expires not later than January 1, 2002.**

33 **SECTION 5. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred House Bill 2147, 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:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 2147 as introduced.)

MOSES, Chair

Committee Vote: yeas 7, nays 1.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill No. 2147, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 4-22-2.5-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.1. (a) This section applies to the following:**

(1) A rule that is required to receive or maintain:

- (A) delegation;**
- (B) primacy; or**
- (C) approval;**

for state implementation or operation of a program established under federal law.

(2) A rule that is required to begin or continue receiving federal funding for the implementation or operation of a program.

(b) A rule described in subsection (a) does not expire under this chapter.

(c) An agency shall solicit comments in the manner described in IC 4-22-2-23.1 every seven (7) years to determine whether a rule described in subsection (a) is in compliance with current state and federal laws and regulations governing implementation or operation of the program for which rules are established. If the agency determines that the rule is not in compliance, the agency shall initiate a rulemaking action to bring the rule into compliance."

Page 2, delete lines 1 through 3.

Page 2, line 6, after "(b)" insert "**or section 1.1 of this chapter**".

Page 2, delete lines 19 through 33, begin a new paragraph and insert:

"SECTION 3. IC 13-14-9.5-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.1. (a) This section applies to the following:**

(1) A rule that is required to receive or maintain:

- (A) delegation;**
- (B) primacy; or**
- (C) approval;**

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for state implementation or operation of a program established under federal law.

(2) A rule that is required to begin or continue receiving federal funding for the implementation or operation of a program.

(b) A rule described in subsection (a) does not expire under this chapter.

(c) A board shall solicit comments in the manner described in IC 4-22-2-23.1 every seven (7) years to determine whether a rule described in subsection (a) is in compliance with current state and federal laws and regulations governing implementation or operation of the program for which rules are established. If the board determines that the rule is not in compliance, the board shall initiate a rulemaking action to bring the rule into compliance."

Page 2, line 36, after "(b)" insert "or section 1.1 of this chapter".

Page 3, after line 7, begin a new paragraph and insert:

"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 HB 2147 as printed February 27, 2001.)

MERRITT, Chairperson

Committee Vote: Yeas 7, Nays 2.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 2147 be amended to read as follows:

Page 2, delete lines 37 through 42, begin a new paragraph and insert:

"(c) In the seventh year after the effective date of a rule or an amendment to a rule described in subsection (a), the department shall publish a notice in the Indiana Register. The notice may contain a list of several rules that have been effective for seven (7) years. A separate notice must be published for each board with rulemaking authority. A notice under this subsection must provide for the following:

(1) A written comment period of at least thirty (30) days.

(2) A request for comments on specific rules that should be reviewed through the regular rulemaking process under IC 13-14-9.

(3) A notice of public hearing before the appropriate board.

(d) The department shall:

(1) prepare responses to all comments received during the comment period; and

(2) provide all comments and responses to the board during the public board hearing;

described in subsection (c).

(e) The board, after considering the written comments and responses, as well as testimony at the public hearing described in subsection (c), shall direct the department on whether additional rulemaking actions must be initiated to address concerns raised to the board.

(f) For the rules described in subsection (a) that are effective on or before July 1, 2001, the notice described in subsection (c) shall be published in the Indiana Register before December 31, 2008."

Page 3, delete line 1.

(Reference is to EHB 2147 as printed March 30, 2001.)

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SENATE MOTION

Mr. President: I move that House Bill 2147 be amended to read as follows:

Page 1, line 15, after "chapter." insert "**However, an agency shall readopt a rule described in this section before January 1 of the seventh year after the year in which the rule takes effect as set forth in this chapter.**".

Page 1, delete lines 16 through 17.

Page 2, delete lines 1 through 5.

(Reference is to EHB 2147 as printed March 30, 2001.)

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