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# SENATE BILL No. 30

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-22-2-28.

**Synopsis:** Limitation on adoption of agency rules. Provides that after May 1, 2012, a state agency may not adopt a rule that will have a total estimated economic impact of any amount on the state, an instrumentality of the state, or a political subdivision unless the rule is required to comply with a court order or with a federal law, a federal regulation, or the terms of a federal grant or loan. For a rule that meets this requirement, requires the agency proposing it to submit the rule to the office of management and budget for a fiscal analysis and preparation of a fiscal impact statement.

**Effective:** Upon passage.

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January 4, 2012, read first time and referred to Committee on Tax and Fiscal Policy.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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**SENATE BILL No. 30**



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 4-22-2-28, AS AMENDED BY P.L.110-2010,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 28. (a) The following definitions apply  
4 throughout this section:  
5 (1) "Ombudsman" refers to the small business ombudsman  
6 designated under IC 5-28-17-5.  
7 (2) **"Political subdivision" has the meaning set forth in**  
8 **IC 36-1-2-13.**  
9 (2) (3) "Total estimated economic impact", **with respect to a**  
10 **proposed rule, means the following:**  
11 (A) **With the respect to the rule's impact on persons**  
12 **regulated by the rule, the estimated total** annual economic  
13 impact of ~~a~~ **the rule** on all regulated persons after the rule is  
14 fully implemented under subsection (g).  
15 (B) **With respect to the rule's impact on the state, including**  
16 **an agency that submits the rule to the office of**  
17 **management and budget under subsection (c), the**



1           **estimated total annual fiscal impact of the rule on the**  
 2           **administrative costs of the state after the rule is fully**  
 3           **implemented under subsection (g).**

4           **(C) With respect to the rule's impact on any affected**  
 5           **instrumentality of the state, including an instrumentality**  
 6           **that submits the rule to the office of management and**  
 7           **budget under subsection (c), the estimated total annual**  
 8           **fiscal impact of the rule on the administrative costs of the**  
 9           **instrumentality after the rule is fully implemented under**  
 10           **subsection (g).**

11           **(D) With respect to the rule's impact on any affected**  
 12           **political subdivision, the estimated total annual fiscal**  
 13           **impact of the rule on the administrative costs of the**  
 14           **political subdivision after the rule is fully implemented**  
 15           **under subsection (g).**

16           (b) The ombudsman:

17               (1) shall review a proposed rule that:

18                   (A) imposes requirements or costs on small businesses (as  
 19                   defined in IC 4-22-2.1-4); and

20                   (B) is referred to the ombudsman by an agency under  
 21                   IC 4-22-2.1-5(c); and

22               (2) may review a proposed rule that imposes requirements or  
 23               costs on businesses other than small businesses (as defined in  
 24               IC 4-22-2.1-4).

25           After conducting a review under subdivision (1) or (2), the ombudsman  
 26           may suggest alternatives to reduce any regulatory burden that the  
 27           proposed rule imposes on small businesses or other businesses. The  
 28           agency that intends to adopt the proposed rule shall respond in writing  
 29           to the ombudsman concerning the ombudsman's comments or  
 30           suggested alternatives before adopting the proposed rule under section  
 31           29 of this chapter.

32           (c) Subject to ~~subsection~~ **subsections (f) and (h), and** not later than  
 33           fifty (50) days before the public hearing required by section 26 of this  
 34           chapter, an agency shall submit a proposed rule to the office of  
 35           management and budget for a review under subsection (d) if the agency  
 36           proposing the rule determines that the rule will have a total estimated  
 37           economic impact:

38               **(1) greater than five hundred thousand dollars (\$500,000) on all**  
 39               **regulated persons; or**

40               **(2) of any amount on the state, an instrumentality of the state,**  
 41               **or a political subdivision.**

42           In determining the total estimated economic impact under this

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1 subsection, the agency shall consider any applicable information  
 2 submitted by the regulated persons affected by the rule, **along with any**  
 3 **applicable information submitted by the state, an affected**  
 4 **instrumentality of the state, or an affected political subdivision.** To  
 5 assist the office of management and budget in preparing the fiscal  
 6 impact statement required by subsection (d), the agency shall submit,  
 7 along with the proposed rule, the data used and assumptions made by  
 8 the agency in determining the total estimated economic impact of the  
 9 rule.

10 (d) Except as provided in subsection (e), before the adoption of the  
 11 rule, and not more than forty-five (45) days after receiving a proposed  
 12 rule under subsection (c), the office of management and budget shall  
 13 prepare, using the data and assumptions provided by the agency  
 14 proposing the rule, along with any other data or information available  
 15 to the office of management and budget, a fiscal impact statement  
 16 concerning the effect that compliance with the proposed rule will have  
 17 on:

- 18 (1) the state;
- 19 (2) **all affected instrumentalities of the state;**
- 20 (3) **all affected political subdivisions;** and
- 21 ~~(4)~~ (4) all persons regulated by the proposed rule.

22 The fiscal impact statement must contain the total estimated economic  
 23 impact of the proposed rule ~~and on the state, all affected~~  
 24 **instrumentalities of the state, all affected political subdivisions, and**  
 25 **all regulated persons. The fiscal impact statement must also**  
 26 **contain** a determination concerning the extent to which the proposed  
 27 rule creates an unfunded mandate on ~~a any affected~~ state agency, **any**  
 28 **affected instrumentality of the state, or any affected** political  
 29 subdivision. The fiscal impact statement is a public document. The  
 30 office of management and budget shall make the fiscal impact  
 31 statement available to interested parties upon request. The agency  
 32 proposing the rule shall consider the fiscal impact statement as part of  
 33 the rulemaking process and shall provide the office of management and  
 34 budget with the information necessary to prepare the fiscal impact  
 35 statement, including any economic impact statement prepared by the  
 36 agency under IC 4-22-2.1-5. **In preparation of the fiscal impact**  
 37 **statement,** the office of management and budget may also receive and  
 38 consider applicable information from the regulated persons affected by  
 39 the rule, ~~in preparation of the fiscal impact statement: along with any~~  
 40 **applicable information submitted by the state, an affected**  
 41 **instrumentality of the state, or an affected political subdivision.**

42 (e) With respect to a proposed rule subject to IC 13-14-9:

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1 (1) the department of environmental management shall give  
 2 written notice to the office of management and budget of the  
 3 proposed date of preliminary adoption of the proposed rule not  
 4 less than sixty-six (66) days before that date; and

5 (2) the office of management and budget shall prepare the fiscal  
 6 impact statement referred to in subsection (d) not later than  
 7 twenty-one (21) days before the proposed date of preliminary  
 8 adoption of the proposed rule.

9 (f) In determining **under subsection (c)(1)** whether a proposed rule  
 10 has a total estimated economic impact greater than five hundred  
 11 thousand dollars (\$500,000) **on all regulated persons**, the agency  
 12 proposing the rule shall consider the impact of the rule on any  
 13 regulated person that already complies with the standards imposed by  
 14 the rule on a voluntary basis.

15 (g) For purposes of this section, a rule is fully implemented after:

16 (1) the conclusion of any phase-in period during which:

17 (A) the rule is gradually made to apply to certain regulated  
 18 persons; or

19 (B) the costs of the rule are gradually implemented; and

20 (2) the rule applies to all regulated persons that will be affected  
 21 by the rule.

22 In determining the total estimated economic impact of a proposed rule  
 23 under this section, the agency proposing the rule shall consider the  
 24 annual economic impact on all regulated persons beginning with the  
 25 first twelve (12) month period after the rule is fully implemented. The  
 26 agency may use actual or forecasted data and may consider the actual  
 27 and anticipated effects of inflation and deflation. The agency shall  
 28 describe any assumptions made and any data used in determining the  
 29 total estimated economic impact of a rule under this section.

30 **(h) After May 1, 2012, an agency may not adopt a rule that will**  
 31 **have a total estimated economic impact of any amount on the state,**  
 32 **an instrumentality of the state, or a political subdivision unless the**  
 33 **rule is required to comply with a court order or with a federal law,**  
 34 **a federal regulation, or the terms of a federal grant or loan.**

35 SECTION 2. An emergency is declared for this act.

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