

SENATE BILL No. 311

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-22-2-28.3.

Synopsis: Fiscal impact review for environmental rules. Requires the department of environmental management (department) to prepare a fiscal impact statement for each rule that has been: (1) finally adopted by certain environmental boards after June 30, 2012; and (2) fully implemented for a period of three years after the rule's final adoption. Provides that a fiscal impact statement must include certain information concerning the total economic impact that compliance with the rule has had on all persons regulated by the rule during the first three years the rule has been fully implemented. Requires the department to submit a fiscal impact statement to the budget committee not later than six months after the date on which the department determines that the rule to which the statement applies has been fully implemented for three years, unless the budget committee requires otherwise. Provides that the budget committee may prescribe: (1) the form of a fiscal impact statement; and (2) the process, deadlines, and other requirements for submitting a fiscal impact statement.

Effective: July 1, 2012.

Hershman

January 5, 2012, read first time and referred to Committee on Energy and Environmental Affairs.

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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. 311



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 4-22-2-28.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]: **Sec. 28.3. (a) Except as provided in subsection (b), this**
4 **section applies to a rule that has been:**
5 (1) **finally adopted by a board under this chapter and**
6 **IC 13-4-9 after June 30, 2012; and**
7 (2) **fully implemented for a period of three (3) years after the**
8 **rule's final adoption by the board under subdivision (1).**
9 (b) **This section does not apply to a rule adopted under**
10 **IC 13-14-9-14.**
11 (c) **As used in this section, "board" refers to a board described**
12 **in IC 13-14-9-1.**
13 (d) **As used in this section, "committee" refers to the budget**
14 **committee established by IC 4-12-1-3.**
15 (e) **As used in this section, "department" refers to the**
16 **department of environmental management established by**
17 **IC 13-13-1-1.**



1 (f) For purposes of this section, a rule is fully implemented after:

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

3 (A) the rule is gradually made to apply to certain regulated
4 persons; or

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

6 (2) the rule applies to all classes of persons designated for
7 regulation under the rule at the time the rule was finally
8 adopted.

9 (g) For each rule to which this section applies, the department
10 shall prepare a fiscal impact statement concerning the total
11 economic impact that compliance with the rule has had on all
12 persons regulated by the rule during the first three (3) years that
13 the rule has been fully implemented following the applicable
14 board's final adoption of the rule. Except as otherwise required by
15 the committee under subsection (i), the department shall submit a
16 fiscal impact statement prepared under this section to the
17 committee not later than six (6) months after the date on which the
18 department determines that the rule to which the statement applies
19 has been fully implemented for three (3) years. A fiscal impact
20 statement prepared under this section must include the following
21 with respect to the three (3) year period covered by the statement:

22 (1) A statement of the number of regulated persons, classified
23 by industry sector, subject to the rule.

24 (2) A statement of the average annual costs, including
25 reporting, record keeping, and other administrative costs,
26 that regulated persons have incurred to comply with the rule
27 during the covered period. The statement provided under this
28 subdivision must include a comparison of:

29 (A) the actual average annual costs incurred by regulated
30 persons and reported under this subdivision; and

31 (B) the total economic impact estimated for the rule as part
32 of any fiscal impact statement prepared for the rule under:

33 (i) section 28 of this chapter; and

34 (ii) IC 4-22-2.1-5;

35 before the rule was finally adopted.

36 (3) If applicable, a statement identifying each element of the
37 rule that imposes a restriction or requirement that:

38 (A) is more stringent than a restriction or requirement
39 imposed under federal law; or

40 (B) applies in a subject area in which federal law does not
41 impose a restriction or requirement.

42 (4) A regulatory flexibility analysis that considers any less

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intrusive or less costly alternative methods of achieving the purpose of the rule. For any element of the rule identified under subdivision (3), the analysis under this subdivision must identify:

(A) the environmental circumstance or hazard that the department sought to address at the time the rule was adopted, as originally set forth by the department under IC 13-14-9-4(a)(6);

(B) the data used and assumptions relied upon by the department in the development of the rule, including any materials listed in IC 13-14-9-4(a)(7); and

(C) whether the circumstance or hazard identified under clause (A) still exists or has been remediated.

(5) Any other information that the committee may require with respect to a fiscal impact statement under this section.

(h) A fiscal impact statement prepared under this section is a public document. The department shall make a fiscal impact statement available to interested parties upon request. The department shall consider the preparation of a fiscal impact statement under this section as part of the rulemaking process under this chapter and IC 13-14-9.

(i) The committee may prescribe:

(1) the form of a fiscal impact statement; and

(2) the process, deadlines, and other requirements for submitting a fiscal impact statement;

required under this section.

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