



Reprinted
February 1, 2012

SENATE BILL No. 311

DIGEST OF SB 311 (Updated January 31, 2012 2:09 pm - DI 101)

Citations Affected: IC 4-3.

Synopsis: Cost benefit analysis for administrative rules. Requires the office of management and budget (OMB) to prepare for each administrative rule that: (1) has been adopted; and (2) has taken effect; after December 31, 2011, a cost benefit analysis with respect to the first three years following the rule's effective date. Provides that a cost benefit analysis must include certain information concerning the three year period covered by the analysis. Requires the OMB to submit a cost benefit analysis to: (1) the governor; and (2) the administrative rules oversight committee (committee); not later than six months after the third anniversary of the rule's effective date. Provides that the governor or the committee may prescribe: (1) the form of a cost benefit analysis; and (2) the process, deadlines, and other requirements for submitting a cost benefit analysis. Provides that in preparing a cost benefit analysis: (1) before a rule's adoption under the existing statute that requires a cost benefit analysis for proposed rules; or (2) after a rule's adoption and effective date under the act; the OMB shall consider any
(Continued next page)

Effective: July 1, 2012.

**Hershman, Gard, Schneider, Buck,
Randolph, Tomes**

January 5, 2012, read first time and referred to Committee on Energy and Environmental Affairs.
January 17, 2012, amended, reported favorably — Do Pass.
January 30, 2012, read second time, amended, ordered engrossed. Returned to second reading.
January 31, 2012, re-read second time, amended, ordered engrossed. Engrossed.

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verified data provided voluntarily by interested parties, regulated persons, and nonprofit corporations whose members may be affected by the rule. Provides that a cost benefit analysis prepared before or after a rule's adoption is a public document, subject to the following: (1) The OMB or an agency may not require an interested party or a regulated person to provide information in connection with an analysis. (2) If an interested party or a regulated person voluntarily provides information, the OMB or an agency responsible for proposing or administering the rule shall ensure adequate protection of any confidential or proprietary information provided. (3) At least 30 days before presenting the cost benefit analysis to the governor and the committee, the OMB shall make the cost benefit analysis available to interested parties, regulated persons, and nonprofit corporations whose members may be affected by the rule.

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February 1, 2012

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.

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 4-3-22-13, AS ADDED BY P.L.246-2005,
2 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 13. (a) The OMB shall perform a cost benefit
4 analysis upon each proposed rule and provide to:
5 (1) the governor; and
6 (2) the administrative rules oversight committee established under
7 IC 2-5-18;
8 an assessment of the rule's effect on Indiana business.
9 (b) After June 30, 2005, the cost benefit analysis performed by the
10 OMB under this section with respect to any proposed rule that has an
11 impact of at least five hundred thousand dollars (\$500,000) shall
12 replace and be used for all purposes under IC 4-22-2 in lieu of the
13 fiscal analysis previously performed by the legislative services agency
14 under IC 4-22-2.
15 (c) **In preparing a cost benefit analysis under this section, the**
16 **OMB shall consider in its analysis any verified data provided**
17 **voluntarily by interested parties, regulated persons, and nonprofit**

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1 corporations whose members may be affected by the proposed
2 rule. A cost benefit analysis prepared under this section is a public
3 document, subject to the following:

4 (1) This subsection does not empower the OMB or an agency
5 to require an interested party or a regulated person to
6 provide any materials, documents, or other information in
7 connection with a cost benefit analysis under this section. If an
8 interested party or a regulated person voluntarily provides
9 materials, documents, or other information to the OMB or an
10 agency in connection with a cost benefit analysis under this
11 section, the OMB or the agency, as applicable, shall ensure the
12 adequate protection of any:

- 13 (A) information that is confidential under IC 5-14-3-4; or
- 14 (B) confidential and proprietary business plans and other
15 confidential information.

16 The OMB and any agency involved in proposing the rule, or
17 in administering the rule upon the rule's adoption, shall
18 exercise all necessary caution to avoid disclosure of any
19 confidential information supplied to the OMB or the agency
20 by an interested party or a regulated person.

21 (2) The OMB shall make the cost benefit analysis and other
22 related public documents available to interested parties,
23 regulated persons, and nonprofit corporations whose
24 members may be affected by the proposed rule at least thirty
25 (30) days before presenting the cost benefit analysis to the
26 governor and the administrative rules oversight committee
27 under subsection (a).

28 SECTION 2. IC 4-3-22-13.1 IS ADDED TO THE INDIANA CODE
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
30 1, 2012]: Sec. 13.1. (a) This section applies to a rule that:

- 31 (1) has been adopted under IC 4-22-2 or IC 13-14-9; and
- 32 (2) has taken effect;

33 after December 31, 2011.

34 (b) As used in this section, "committee" refers to the
35 administrative rules oversight committee established by
36 IC 2-5-18-4.

37 (c) For each rule to which this section applies, the OMB shall
38 perform a cost benefit analysis of the rule with respect to the
39 period encompassing the first three (3) years following the rule's
40 effective date. Except as otherwise required by the governor or the
41 committee under subsection (f), the OMB shall submit a cost
42 benefit analysis prepared under this section to:

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1 (1) the governor; and
 2 (2) the committee;
 3 not later than six (6) months after the third anniversary of the
 4 rule's effective date.

5 (d) A cost benefit analysis prepared under this section must
 6 include the following with respect to the three (3) year period
 7 covered by the analysis:

8 (1) The cost benefit analysis for the rule prepared under
 9 section 13 of this chapter before the rule's adoption, including
 10 the information required by Financial Management Circular
 11 #2010-4.

12 (2) A statement of the number of regulated persons, classified
 13 by industry sector, subject to the rule.

14 (3) A comparison of:

15 (A) the cost benefit analysis for the rule prepared under
 16 section 13 of this chapter before the rule's implementation;
 17 and

18 (B) the actual costs and benefits of the rule during the first
 19 three (3) years of the rule's implementation.

20 (4) For each element of the rule that is also the subject of
 21 restrictions or requirements imposed under federal law, a
 22 comparison of:

23 (A) the restrictions or requirements imposed under the
 24 rule; and

25 (B) the restrictions or requirements imposed under federal
 26 law.

27 (5) Any other information that the governor or the committee
 28 may require with respect to a cost benefit analysis under this
 29 section.

30 (e) In preparing a cost benefit analysis under this section, the
 31 OMB shall consider in its analysis any verified data provided
 32 voluntarily by interested parties, regulated persons, and nonprofit
 33 corporations whose members may be affected by the rule. A cost
 34 benefit analysis prepared under this section is a public document,
 35 subject to the following:

36 (1) This subsection does not empower the OMB or an agency
 37 to require an interested party or a regulated person to
 38 provide any materials, documents, or other information. If an
 39 interested party or a regulated person voluntarily provides
 40 materials, documents, or other information to the OMB or an
 41 agency in connection with a cost benefit analysis under this
 42 section, the OMB or the agency, as applicable, shall ensure the

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adequate protection of any:
(A) information that is confidential under IC 5-14-3-4; or
(B) confidential and proprietary business plans and other confidential information.

The OMB and any agency involved in administering the rule shall exercise all necessary caution to avoid disclosure of any confidential information supplied to the OMB or the agency by an interested party or a regulated person.

(2) The OMB shall make the cost benefit analysis and other related public documents available to interested parties, regulated persons, and nonprofit corporations whose members may be affected by the rule at least thirty (30) days before presenting the cost benefit analysis to the governor and the committee under subsection (c).

(f) The governor or the committee, or both, may prescribe:
(1) the form of a cost benefit analysis; and
(2) the process, deadlines, and other requirements for submitting a cost benefit analysis;
required under this section.

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 311, 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:

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 SB 311 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 311 be amended to read as follows:

Page 1, delete lines 15 through 17, begin a new paragraph and insert:

"(c) In preparing a cost benefit analysis under this section, the OMB shall consider in its analysis any verified data provided voluntarily by interested parties and regulated persons. A cost benefit analysis prepared under this section is a public document, subject to the following:

(1) This subsection does not empower the OMB or an agency to require an interested party or a regulated person to provide any materials, documents, or other information in connection with a cost benefit analysis under this section. If an interested party or a regulated person voluntarily provides materials, documents, or other information to the OMB or an agency in connection with a cost benefit analysis under this section, the OMB or the agency, as applicable, shall ensure the adequate protection of any:

- (A) information that is confidential under IC 5-14-3-4; or**
- (B) confidential and proprietary business plans and other confidential information.**

The OMB and any agency involved in proposing the rule, or in administering the rule upon the rule's adoption, shall

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exercise all necessary caution to avoid disclosure of any confidential information supplied to the OMB or the agency by an interested party or a regulated person.

(2) The OMB shall make the cost benefit analysis and other related public documents available to interested parties and regulated persons at least thirty (30) days before presenting the cost benefit analysis to the governor and the administrative rules oversight committee under subsection (a)."

Page 2, delete lines 1 through 4.

Page 2, line 7, delete "This section applies to a rule that has been" and insert **"(a) This section applies to a rule that:**

(1) has been adopted under IC 4-22-2 or IC 13-14-9; and

(2) has taken effect;

after December 31, 2011."

Page 2, delete lines 8 through 11.

Page 2, line 17, delete "date on" and insert **"rule's effective date."**

Page 2, line 18, delete "which the rule was finally adopted."

Page 2, line 23, delete "date" and insert **"rule's effective date."**

Page 2, delete line 24.

Page 2, line 29, delete "final".

Page 3, delete lines 8 through 14, begin a new paragraph and insert:

"(e) In preparing a cost benefit analysis under this section, the OMB shall consider in its analysis any verified data provided voluntarily by interested parties and regulated persons. A cost benefit analysis prepared under this section is a public document, subject to the following:

(1) This subsection does not empower the OMB or an agency to require an interested party or a regulated person to provide any materials, documents, or other information. If an interested party or a regulated person voluntarily provides materials, documents, or other information to the OMB or an agency in connection with a cost benefit analysis under this section, the OMB or the agency, as applicable, shall ensure the adequate protection of any:

(A) information that is confidential under IC 5-14-3-4; or

(B) confidential and proprietary business plans and other confidential information.

The OMB and any agency involved in administering the rule shall exercise all necessary caution to avoid disclosure of any confidential information supplied to the OMB or the agency by an interested party or a regulated person.

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(2) The OMB shall make the cost benefit analysis and other related public documents available to interested parties and regulated persons at least thirty (30) days before presenting the cost benefit analysis to the governor and the committee under subsection (c)."

(Reference is to SB 311 as printed January 18, 2012.)

HERSHMAN

SENATE MOTION

Madam President: I move that Senate Bill 311 be amended to read as follows:

Page 1, line 17, delete "parties." and insert "**parties and from nonprofit corporations whose members may be affected by the proposed rule.**".

Page 2, line 2, after "parties" insert "**and to nonprofit corporations whose members may be affected by the proposed rule.**".

Page 2, line 7, after "13.1." insert "**(a)**".

Page 2, line 10, delete "IC 13-4-9" and insert "**IC 13-14-9;**".

Page 3, line 10, delete "parties." and insert "**parties and from nonprofit corporations whose members may be affected by the rule.**".

Page 3, line 12, after "parties" insert "**and to nonprofit corporations whose members may be affected by the rule.**".

(Reference is to SB 311 as printed January 18, 2012.)

HERSHMAN

SENATE MOTION

Madam President: I move that Engrossed Senate Bill 311, which is eligible for third reading, be returned to second reading for purposes of amendment.

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SENATE MOTION

Madam President: I move that Senate Bill 311 be amended to read as follows:

Page 1, line 17, delete "parties and regulated persons." and insert "**parties, regulated persons, and nonprofit corporations whose members may be affected by the proposed rule.**".

Page 2, line 21, delete "parties and" and insert "**parties, regulated persons, and nonprofit corporations whose members may be affected by the proposed rule**".

Page 2, line 22, delete "regulated persons".

Page 3, line 30, delete "parties and regulated persons." and insert "**parties, regulated persons, and nonprofit corporations whose members may be affected by the rule.**".

Page 4, line 7, delete "parties and" and insert "**parties, regulated persons, and nonprofit corporations whose members may be affected by the rule**".

Page 4, line 8, delete "regulated persons".

(Reference is to SB 311 as reprinted January 30, 2012.)

HERSHMAN

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