

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1280, 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:

- 1 Page 1, delete lines 1 through 17.
- 2 Delete pages 2 through 3.
- 3 Page 4, delete lines 1 through 18.
- 4 Page 4, delete lines 26 through 42, begin a new paragraph and
- 5 insert:
- 6 "SECTION 2. IC 4-3-22-6, AS ADDED BY P.L.246-2005,
- 7 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2012]: Sec. 6. (a) The division of government efficiency and
- 9 financial planning is established within the OMB. The director shall
- 10 appoint, subject to the approval of the governor, a director of the
- 11 division, who serves at the pleasure of the director of OMB.
- 12 (b) The division shall **do the following:**
- 13 (1) Conduct operational and procedural audits of state
- 14 government.
- 15 (2) Perform financial planning and design and implement
- 16 efficiency projects. ~~and~~
- 17 (3) **Advise and assist:**
- 18 (A) **each instrumentality, agency, authority, board,**
- 19 **commission, and officer in the executive department of**
- 20 **state government; and**
- 21 **(B) each body corporate and politic established as an**

1 **instrumentality of the state;**
 2 **to identify and implement continuous process improvement in**
 3 **state government.**

4 **(4)** Carry out such other responsibilities as may be designated by
 5 the director.

6 SECTION 3. IC 4-3-22-13, AS ADDED BY P.L.246-2005,
 7 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2012]: Sec. 13. (a) The OMB shall perform a cost benefit
 9 analysis upon each proposed rule and provide to:

- 10 (1) the governor; and
 11 (2) the administrative rules oversight committee established under
 12 IC 2-5-18;

13 an assessment of the rule's effect on Indiana business.

14 (b) After June 30, 2005, the cost benefit analysis performed by the
 15 OMB under this section with respect to any proposed rule that has an
 16 impact of at least five hundred thousand dollars (\$500,000) shall
 17 replace and be used for all purposes under IC 4-22-2 in lieu of the
 18 fiscal analysis previously performed by the legislative services agency
 19 under IC 4-22-2.

20 **(c) In preparing a cost benefit analysis under this section, the**
 21 **OMB shall consider in its analysis any verified data provided**
 22 **voluntarily by interested parties, regulated persons, and nonprofit**
 23 **corporations whose members may be affected by the proposed**
 24 **rule. A cost benefit analysis prepared under this section is a public**
 25 **document, subject to the following:**

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

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

38 **The OMB and any agency involved in proposing the rule, or**
 39 **in administering the rule upon the rule's adoption, shall**
 40 **exercise all necessary caution to avoid disclosure of any**
 41 **confidential information supplied to the OMB or the agency**
 42 **by an interested party or a regulated person.**

1 **(2) The OMB shall make the cost benefit analysis and other**
 2 **related public documents available to interested parties,**
 3 **regulated persons, and nonprofit corporations whose**
 4 **members may be affected by the proposed rule at least thirty**
 5 **(30) days before presenting the cost benefit analysis to the**
 6 **governor and the administrative rules oversight committee**
 7 **under subsection (a).**

8 SECTION 4. IC 4-3-22-13.1 IS ADDED TO THE INDIANA CODE
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 10 1, 2012]: **Sec. 13.1. (a) This section applies to a rule that:**

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

12 **(2) has taken effect;**

13 **after December 31, 2011.**

14 **(b) As used in this section, "committee" refers to the**
 15 **administrative rules oversight committee established by**
 16 **IC 2-5-18-4.**

17 **(c) For each rule to which this section applies, the OMB shall**
 18 **perform a cost benefit analysis of the rule with respect to the**
 19 **period encompassing the first three (3) years following the rule's**
 20 **effective date. Except as otherwise required by the governor or the**
 21 **committee under subsection (f), the OMB shall submit a cost**
 22 **benefit analysis prepared under this section to:**

23 **(1) the governor; and**

24 **(2) the committee;**

25 **not later than six (6) months after the third anniversary of the**
 26 **rule's effective date.**

27 **(d) A cost benefit analysis prepared under this section must**
 28 **include the following with respect to the three (3) year period**
 29 **covered by the analysis:**

30 **(1) The cost benefit analysis for the rule prepared under**
 31 **section 13 of this chapter before the rule's adoption, including**
 32 **the information required by Financial Management Circular**
 33 **#2010-4.**

34 **(2) A statement of the number of regulated persons, classified**
 35 **by industry sector, subject to the rule.**

36 **(3) A comparison of:**

37 **(A) the cost benefit analysis for the rule prepared under**
 38 **section 13 of this chapter before the rule's implementation;**
 39 **and**

40 **(B) the actual costs and benefits of the rule during the first**
 41 **three (3) years of the rule's implementation.**

42 **(4) For each element of the rule that is also the subject of**

1 **restrictions or requirements imposed under federal law, a**
 2 **comparison of:**

3 **(A) the restrictions or requirements imposed under the**
 4 **rule; and**

5 **(B) the restrictions or requirements imposed under federal**
 6 **law.**

7 **(5) Any other information that the governor or the committee**
 8 **may require with respect to a cost benefit analysis under this**
 9 **section.**

10 **(e) In preparing a cost benefit analysis under this section, the**
 11 **OMB shall consider in its analysis any verified data provided**
 12 **voluntarily by interested parties, regulated persons, and nonprofit**
 13 **corporations whose members may be affected by the rule. A cost**
 14 **benefit analysis prepared under this section is a public document,**
 15 **subject to the following:**

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

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

25 **(B) confidential and proprietary business plans and other**
 26 **confidential information.**

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

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

37 **(f) The governor or the committee, or both, may prescribe:**

38 **(1) the form of a cost benefit analysis; and**

39 **(2) the process, deadlines, and other requirements for**
 40 **submitting a cost benefit analysis;**

41 **required under this section.**

42 **SECTION 5. IC 4-21.5-2.7 IS ADDED TO THE INDIANA CODE**

1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2012]:

3 **Chapter 2.7. Qualifications and Training of Administrative Law
4 Judges and Other Hearing Officers**

5 **Sec. 1. The state personnel department shall:**

6 **(1) adopt classifications and qualifications for administrative
7 law judges and other hearing officers in the executive
8 department of state government; and**

9 **(2) develop appropriate training programs for administrative
10 law judges and other hearing officers in the executive
11 department of state government.**

12 **Sec. 2. The qualifications adopted under section 1 of this chapter
13 are in addition to any other requirements specified by statute.**

14 **Sec. 3. The qualifications adopted under section 1 of this chapter
15 do not apply to the ultimate authority for an agency or a member
16 of the ultimate authority for an agency when the ultimate authority
17 is a panel of individuals.**

18 SECTION 6. IC 4-22-2-19.7 IS ADDED TO THE INDIANA CODE
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2012]: **Sec. 19.7. An agency, to the extent feasible and permitted
21 by law, shall afford the public a meaningful opportunity to
22 comment through the Internet on proposed rules. An agency shall
23 consider providing a comment period that exceeds the minimum
24 required by law."**

25 Delete pages 5 through 14.

26 Page 15, delete lines 1 through 8.

27 Page 16, line 8, reset in roman "may".

28 Page 16, line 8, delete "shall".

29 Page 16, delete lines 40 through 42.

30 Page 17, delete lines 1 through 22.

31 Page 17, line 23, delete "6. (a) An agency must be fully in
32 compliance with this" and insert "4."

33 Page 17, delete line 24.

34 Page 17, line 25, delete "(b)".

35 Page 17, run in lines 23 through 25.

36 Page 17, line 27, delete "7. (a)" and insert "5."

37 Page 17, line 28, delete "section" and insert "**chapter**".

38 Page 17, delete lines 29 through 34.

39 Page 26, between lines 36 and 37, begin a new paragraph and insert:

40 "SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) The state
41 personnel department shall before November 1, 2012, report in an
42 electronic format under IC 5-14-6 to the administrative rules**

1 **oversight commission concerning the:**
2 **(1) classifications and qualifications for administrative law**
3 **judges; and**
4 **(2) training programs for administrative law judges and other**
5 **hearing officers;**
6 **adopted and developed under IC 4-21.5-2.7, as added by this act.**
7 **(b) This SECTION expires January 1, 2013."**
8 Renumber all SECTIONS consecutively.
 (Reference is to HB 1280 as reprinted January 28, 2012.)

and when so amended that said bill do pass .

Committee Vote: Yeas 9, Nays 3.

Senator Hershman, Chairperson