



Reprinted  
April 9, 2013

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# ENGROSSED HOUSE BILL No. 1583

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DIGEST OF HB 1583 (Updated April 8, 2013 7:14 pm - DI 51)

**Citations Affected:** IC 2-5; IC 4-3; IC 4-22; IC 13-14.

**Synopsis:** Review of administrative rules. Sets forth procedures for the appointment of: (1) the members of the administrative rules oversight committee (committee); and (2) the committee's chair. Requires an agency to submit economic impact information for proposed rules to the office of management and budget (OMB) for a review of the direct economic impact of the proposed rule on all regulated persons and all other benefitted persons. Requires OMB to provide the committee with a copy of each economic impact analysis. Permits the committee to review the direct economic impact of a proposed rule regardless of whether the rule has a direct economic impact exceeding \$500,000. (Currently OMB is only required to forward rules and the committee is limited to reviewing only rules with an economic impact exceeding \$500,000). Permits the committee to recommend that the governor approve or disapprove a rule.

**Effective:** Upon passage; July 1, 2013.

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## Harman, Mayfield, Thompson, Moed

(SENATE SPONSORS — YODER, MISHLER, RANDOLPH)

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January 23, 2013, read first time and referred to Select Committee on Government Reduction.

February 12, 2013, amended, reported — Do Pass.

February 14, 2013, read second time, ordered engrossed. Engrossed.

February 18, 2013, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

February 27, 2013, read first time and referred to Committee on Public Policy.

March 21, 2013, reported favorably — Do Pass.

April 8, 2013, read second time, amended, ordered engrossed.

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Reprinted  
April 9, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1583

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 2-5-18-5 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The committee consists  
3 of the following eight (8) members of the general assembly:

4 (1) Four (4) members of the house of representatives appointed by  
5 the speaker of the house of representatives. Not more than two (2)  
6 members appointed under this subdivision may be members of the  
7 same political party.

8 (2) Four (4) members of the senate appointed by the president pro  
9 tempore of the senate. Not more than two (2) members appointed  
10 under this subdivision may be members of the same political  
11 party.

12 (b) The appointing authorities shall make the appointments **under**  
13 **subsection (a) as follows:**

14 (1) **In 2013:**

15 (A) **after the adjournment sine die of the first regular**  
16 **session of the one hundred eighteenth general assembly;**  
17 **and**

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1 (B) before July 1, 2013.  
 2 (2) In each even-numbered year, beginning in 2014:  
 3 (A) after the election of the general assembly; and  
 4 (B) before December 1. of each even-numbered year. The  
 5 appointments remain  
 6 Subject to subsection (c), an appointment made under this  
 7 subdivision remains in effect until the election of the next  
 8 general assembly and a subsequent appointment under this  
 9 subdivision.  
 10 (c) Any vacancy occurring on the committee must be filled by the  
 11 appointing authority for the unexpired term.  
 12 SECTION 2. IC 2-5-18-6 IS AMENDED TO READ AS FOLLOWS  
 13 [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The speaker of the house  
 14 of representatives shall appoint a member of the committee to be the  
 15 chair of the committee during the first regular session of each general  
 16 assembly. The member appointed to be chair by the speaker serves as  
 17 chair until the beginning of the second regular session of that general  
 18 assembly. for a term beginning on July 15 in an odd-numbered year  
 19 and ending on July 14 in an even-numbered year.  
 20 (b) The president pro tempore of the senate shall appoint a member  
 21 of the committee to be chair of the committee during the second regular  
 22 session of each general assembly. The member appointed to be chair  
 23 by the president pro tempore serves as chair until the election of the  
 24 next general assembly. for a term beginning on July 15 in an  
 25 even-numbered year and ending on July 14 in an odd-numbered  
 26 year.  
 27 (c) A vacancy in the position of chair of the committee resulting  
 28 from an intervening general election or any other reason shall be  
 29 filled for the remainder of the unexpired term by the appointing  
 30 authority for that term of office.  
 31 (e) (d) The committee shall meet to organize on the call of the chair.  
 32 In calendar year 2013, the organizational meeting must be held not  
 33 later than July 15, 2013. After calendar year 2013, the  
 34 organizational meeting must be held not later than December 15 of  
 35 each even-numbered year. The committee shall meet at the call of the  
 36 chair.  
 37 SECTION 3. IC 2-5-18-8 IS AMENDED TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) The committee shall receive  
 39 and may, at its discretion, review a complaint filed by a person  
 40 regarding a rule or practice of an agency.  
 41 (b) Subject to IC 4-22-2-46, the committee may, on its own  
 42 initiative, review an agency rule or proposed rule, an agency practice,

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1 or a failure of an agency to adopt a rule.

2 (c) The committee may recommend that:

3 **(1) a rule or proposed rule be modified, repealed, or adopted, as**  
 4 **applicable; or**

5 **(2) in the case of a proposed rule reviewed under**  
 6 **IC 4-22-2-46, the proposed rule be approved or disapproved**  
 7 **by the governor.**

8 (d) When appropriate, the committee shall prepare and arrange for  
 9 the introduction of a bill to clarify the intent of the general assembly  
 10 when the general assembly enacted a law or to correct the  
 11 misapplication of a law by an agency.

12 SECTION 4. IC 4-3-22-13, AS AMENDED BY P.L.131-2012,  
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2013]: Sec. 13. (a) Except as provided in ~~subsection~~  
 15 **subsections (e) and (f)**, the OMB shall perform a cost benefit analysis  
 16 upon each proposed rule **(including a proposed rule subject to**  
 17 **IC 13-14-9) that is required to be submitted to the attorney general**  
 18 **under IC 4-22-2-31 and submitted to the governor under**  
 19 **IC 4-22-2-33 and provide the analysis to:**

20 (1) the governor; and

21 (2) the administrative rules oversight committee established under  
 22 IC 2-5-18.

23 ~~an assessment of the rule's effect on Indiana business. The OMB may~~  
 24 ~~perform a cost benefit analysis under this section for any other~~  
 25 ~~rule. The OMB shall submit the a cost benefit analysis under this~~  
 26 ~~section, including any revised cost benefit analysis, to the~~  
 27 ~~administrative rules oversight committee in an electronic format~~  
 28 ~~under IC 5-14-6 as soon as practicable after the analysis is~~  
 29 ~~prepared.~~

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

36 (c) **Section 13.2 of this chapter applies to a cost benefit analysis**  
 37 **prepared under this section.** In preparing a cost benefit analysis under  
 38 this section, the OMB **also** shall consider in its analysis any verified  
 39 data provided voluntarily by interested parties, regulated persons, and  
 40 nonprofit corporations whose members may be affected by the  
 41 proposed rule. A cost benefit analysis prepared under this section is a  
 42 public document, subject to the following:

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

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

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

12 If an agency has adopted rules to implement IC 5-14-3-4,  
 13 interested parties and regulated persons must submit the  
 14 information in accordance with the confidentiality rules adopted  
 15 by the agency to ensure proper processing of confidentiality  
 16 claims. The OMB and any agency involved in proposing the rule,  
 17 or 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 by an  
 20 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, regulated  
 23 persons, and nonprofit corporations whose members may be  
 24 affected by the proposed rule at least thirty (30) days before  
 25 presenting not later than the date the OMB presents the cost  
 26 benefit analysis to the governor and the administrative rules  
 27 oversight committee under subsection (a).

28 ~~(d)~~ If the OMB or an agency is unable to obtain verified data for the  
 29 cost benefit analysis described in **this** subsection, ~~(c)~~; the OMB shall  
 30 state in the cost benefit analysis which data were unavailable for  
 31 purposes of the cost benefit analysis.

32 **(d) The cost benefit analysis information provided to the**  
 33 **administrative rules oversight committee in an electronic format**  
 34 **under IC 5-14-6 under subsection (a) must include:**

35 **(1) The document number for the proposed rule assigned by**  
 36 **the publisher of the Indiana Register.**

37 **(2) A statement of the direct economic impact of the proposed**  
 38 **rule.**

39 **(3) A detailed description of the estimation methodology and**  
 40 **assumptions for the direct economic impact statement.**

41 **(4) Any verified data obtained by the OMB under subsection**  
 42 **(c), including any in connection with the direct economic**

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1 **impact statement.**

2 **(5) Any other materials, documents, data, and other**  
3 **supporting information:**

4 **(A) generated by the OMB; or**

5 **(B) obtained from the agency or from the small business**  
6 **ombudsman designated under IC 5-28-17-5;**

7 **as part of the cost benefit analysis.**

8 **However, if the cost benefit analysis is revised, the OMB may**  
9 **submit only the information related to the revisions. The**  
10 **information described in subdivisions (3) and (4) shall be submitted**  
11 **to the administrative rules oversight committee regardless of**  
12 **whether the agency or the OMB uses the information in developing**  
13 **an economic impact assessment or a cost benefit analysis statement**  
14 **and regardless of whether the information is confidential**  
15 **information. Confidential information submitted to the**  
16 **administrative rules oversight committee shall be treated as**  
17 **confidential by the administrative rules oversight committee and**  
18 **all employees, contractors, and members of the general assembly.**

19 (e) If the OMB finds that a proposed rule is:

20 (1) an adoption or incorporation by reference of a federal law,  
21 regulation, or rule that has no substantive effect on the scope or  
22 intended application of the federal law or rule; or

23 (2) a technical amendment with no substantive effect on an  
24 existing Indiana rule;

25 the OMB may not prepare a cost benefit analysis of the rule under this  
26 section. The agency shall submit the proposed rule to the OMB with a  
27 statement explaining how the proposed rule meets the requirements of  
28 this subsection. If the OMB finds that the rule meets the requirements  
29 of this subsection, the OMB shall provide its findings to the governor  
30 and to the committee in an electronic format under IC 5-14-6. If the  
31 agency amends or modifies the proposed rule after the OMB finds that  
32 a cost benefit analysis may not be prepared for the rule, the agency  
33 shall resubmit the proposed rule to the OMB either for a new  
34 determination that the rule meets the requirements of this subsection,  
35 or for the OMB to prepare a cost benefit analysis of the rule under this  
36 section.

37 **(f) This section (as effective before July 1, 2013) and**  
38 **IC 4-22-2-28 (as effective before July 1, 2013) apply to a rule for**  
39 **which an agency is required to:**

40 **(1) submit the proposed version of the rule to the OMB; or**

41 **(2) give written notice to the OMB of the proposed date of**  
42 **preliminary adoption of the proposed version of the rule;**

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1 under IC 4-22-2-28 before July 1, 2013.

2 (g) This subsection does not apply to a rule described in  
3 subsection (f). Upon receipt by the administrative rules oversight  
4 committee, in an electronic format under IC 5-14-6, of:

5 (1) the initial cost benefit analysis required under subsection  
6 (a) and the information required under subsection (d)  
7 (excluding any later revised cost benefit analysis prepared for  
8 a finally adopted rule); or

9 (2) the findings for a rule under subsection (e);

10 the legislative services agency, acting for the administrative rules  
11 oversight committee, shall notify the attorney general by electronic  
12 or other means that the administrative rules oversight committee  
13 has received the information. The attorney general may not  
14 approve a rule under IC 4-22-2-32 until the attorney general  
15 receives from the legislative services agency the notice for the rule  
16 required by this subsection.

17 SECTION 5. IC 4-3-22-13.2 IS ADDED TO THE INDIANA CODE  
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
19 1, 2013]: Sec. 13.2. (a) This section applies to a rule for which an  
20 agency is required to:

21 (1) submit the proposed version of the rule to the OMB; or

22 (2) give written notice to the OMB of the proposed date of  
23 preliminary adoption of the proposed version of the rule;

24 under IC 4-22-2-28 after June 30, 2013.

25 (b) Except as provided in subsection (c), before the adoption of  
26 a rule, and not more than forty-five (45) days after receiving a  
27 proposed rule under IC 4-22-2-28, the OMB shall prepare a cost  
28 benefit analysis of the rule under section 13 of this chapter. If the  
29 OMB discovers an error in a cost benefit analysis or a proposed  
30 rule is revised after the initial cost benefit analysis is prepared but  
31 before the proposed rule is:

32 (1) initially submitted to the attorney general for approval  
33 under IC 4-22-2-31; or

34 (2) submitted to the attorney general for approval under  
35 IC 4-22-2-31 after the proposed rule has been recalled under  
36 IC 4-22-2-40;

37 in a manner that would substantially affect the conclusions of the  
38 cost benefit analysis, the OMB shall revise the cost benefit analysis  
39 to reflect the changes in the rule finally adopted by the agency and  
40 submit the revised analysis to the administrative rules oversight  
41 committee in an electronic format under IC 5-14-6 and to the  
42 governor as soon as practicable after the revised analysis is

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- 1 prepared.
- 2 (c) With respect to a proposed rule subject to IC 13-14-9, the  
3 OMB shall prepare the cost benefit analysis under section 13 of this  
4 chapter not later than twenty-one (21) days before the proposed  
5 date of preliminary adoption of the proposed rule.
- 6 (d) The cost benefit analysis for a rule must include an analysis  
7 of the rule's annual direct economic impact on the state, political  
8 subdivisions, Indiana business, and any other regulated persons  
9 during any phase-in period and after the rule is fully implemented.  
10 For purposes of this subsection, a rule is fully implemented after:  
11 (1) the conclusion of any phase-in period during which:  
12 (A) the rule is gradually made to apply to certain regulated  
13 persons; or  
14 (B) the costs of the rule are gradually implemented; and  
15 (2) the rule applies to all regulated persons that will be  
16 affected by the rule.
- 17 (e) To the extent possible, the cost benefit analysis must quantify  
18 benefits separately from the costs and identify the costs and  
19 benefits to the state, political subdivisions, Indiana businesses, and  
20 other regulated persons or beneficiaries separately.
- 21 (f) The OMB shall consider the impact of the rule on any  
22 regulated person that already complies with the standards imposed  
23 by the rule on a voluntary basis as a factor that reduces the cost of  
24 implementing a rule. The OMB may use actual or forecasted data  
25 and may consider the actual and anticipated effects of inflation and  
26 deflation.
- 27 (g) The cost benefit analysis must also include a determination  
28 concerning the extent to which the proposed rule creates an  
29 unfunded mandate on a state agency or political subdivision.
- 30 (h) The cost benefit analysis may include other information  
31 related to the rule's effect on Indiana business or on other  
32 regulated or benefitted persons.
- 33 (i) In the cost benefit analysis, the OMB shall describe any  
34 assumptions made and any data used in determining the cost and  
35 benefits of a rule and the estimation methodology used by the  
36 OMB.
- 37 SECTION 6. IC 4-22-2-20, AS AMENDED BY P.L.123-2006,  
38 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
39 JULY 1, 2013]: Sec. 20. (a) Whenever an agency submits a rule to the  
40 publisher, the attorney general, **the administrative rules oversight**  
41 **committee established by IC 2-5-18-4**, or the governor under this  
42 chapter, the agency shall submit the rule in the form of a written

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1 document that:

- 2 (1) is clear, concise, and easy to interpret and to apply; and  
 3 (2) uses the format, numbering system, standards, and techniques  
 4 established under section 42 of this chapter.

5 (b) After June 30, 2006, all documents submitted to the publisher  
 6 under this chapter must be submitted electronically in the format  
 7 specified by the publisher.

8 **(c) Except as otherwise permitted under section 21 of this**  
 9 **chapter, after July 15, 2013, all documents submitted under this**  
 10 **chapter to the members of the administrative rules oversight**  
 11 **committee established by IC 2-5-18-4 must be submitted in an**  
 12 **electronic format under IC 5-14-6.**

13 SECTION 7. IC 4-22-2-21, AS AMENDED BY P.L.123-2006,  
 14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2013]: Sec. 21. (a) **As used in this section, "committee"**  
 16 **refers to the administrative rules oversight committee established**  
 17 **by IC 2-5-18-4.**

18 **(b)** If incorporation of the text in full would be cumbersome,  
 19 expensive, or otherwise inexpedient, an agency may incorporate by  
 20 reference into a rule part or all of any of the following matters:

- 21 (1) A federal or state statute, rule, or regulation.  
 22 (2) A code, manual, or other standard adopted by an agent of the  
 23 United States, a state, or a nationally recognized organization or  
 24 association.  
 25 (3) A manual of the department of local government finance  
 26 adopted in a rule described in IC 6-1.1-31-9.

27 ~~(b)~~ **(c)** Each matter incorporated by reference under subsection ~~(a)~~  
 28 **(b)** must be fully and exactly described.

29 ~~(c)~~ **(d)** An agency may refer to a matter that is directly or indirectly  
 30 referred to in a primary matter by fully and exactly describing the  
 31 primary matter.

32 ~~(d)~~ **(e)** **Subject to subsections (f) and (g)**, whenever an agency  
 33 submits a rule to the attorney general, **the committee**, the governor, or  
 34 the publisher under this chapter, the agency shall also submit a copy of  
 35 the full text of each matter incorporated by reference under subsection  
 36 ~~(a)~~ **(b)** into the rule, other than the following:

- 37 (1) An Indiana statute or rule.  
 38 (2) A form or instructions for a form numbered by the  
 39 commission on public records under IC 5-15-5.1-6.  
 40 (3) The source of a statement that is quoted or paraphrased in full  
 41 in the rule.  
 42 (4) Any matter that has been previously filed with the:

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- 1 (A) secretary of state before July 1, 2006; or  
 2 (B) publisher after June 30, 2006.
- 3 (5) Any matter referred to in subsection ~~(e)~~ (d) as a matter that is  
 4 directly or indirectly referred to in a primary matter.
- 5 ~~(e)~~ (f) **Except as provided in subsection (g), an agency may**  
 6 **comply with subsection ~~(d)~~ (e) by submitting a paper or an electronic**  
 7 **copy of the full text of the matter incorporated by reference.**
- 8 **(g) The full text of any matter submitted to the committee under**  
 9 **subsection (e) must be submitted to the legislative services agency**  
 10 **for the committee, and not to individual members of the committee.**  
 11 **Notwithstanding subsection (f), if the matter being submitted is**  
 12 **available to the agency in an electronic format, the agency must**  
 13 **submit the matter to the committee in an electronic format.**
- 14 SECTION 8. IC 4-22-2-28, AS AMENDED BY P.L.110-2010,  
 15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2013]: Sec. 28. (a) The following definitions apply throughout  
 17 this section:
- 18 (1) "Ombudsman" refers to the small business ombudsman  
 19 designated under IC 5-28-17-5.
- 20 (2) "Total estimated economic impact" means the annual  
 21 economic impact of a rule on all regulated persons after the rule  
 22 is fully implemented under subsection (g).
- 23 (b) The ombudsman:
- 24 (1) shall review a proposed rule that:
- 25 (A) imposes requirements or costs on small businesses (as  
 26 defined in IC 4-22-2.1-4); and
- 27 (B) is referred to the ombudsman by an agency under  
 28 IC 4-22-2.1-5(c); and
- 29 (2) may review a proposed rule that imposes requirements or  
 30 costs on businesses other than small businesses (as defined in  
 31 IC 4-22-2.1-4).
- 32 After conducting a review under subdivision (1) or (2), the ombudsman  
 33 may suggest alternatives to reduce any regulatory burden that the  
 34 proposed rule imposes on small businesses or other businesses. The  
 35 agency that intends to adopt the proposed rule shall respond in writing  
 36 to the ombudsman concerning the ombudsman's comments or  
 37 suggested alternatives before adopting the proposed rule under section  
 38 29 of this chapter.
- 39 (c) ~~Subject to subsection (f) and~~ Not later than fifty (50) days before  
 40 the public hearing required by section 26 of this chapter, an agency  
 41 shall submit a proposed rule to the office of management and budget  
 42 for a review under ~~subsection (d) if the agency proposing the rule~~

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1 determines that the rule will have a total estimated economic impact  
 2 greater than five hundred thousand dollars (\$500,000) on all regulated  
 3 persons. In determining the total estimated economic impact under this  
 4 subsection, the agency shall consider any applicable information  
 5 submitted by the regulated persons affected by the rule. To assist the  
 6 office of management and budget in preparing the fiscal impact  
 7 statement required by subsection (d), The agency shall submit, along  
 8 with the proposed rule, the data used and assumptions made by the  
 9 agency in determining the total estimated economic impact of the rule.  
 10 **IC 4-3-22-13.**

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

19 (1) the state; and

20 (2) all persons regulated by the proposed rule.

21 The fiscal impact statement must contain the total estimated economic  
 22 impact of the proposed rule and a determination concerning the extent  
 23 to which the proposed rule creates an unfunded mandate on a state  
 24 agency or political subdivision. The fiscal impact statement is a public  
 25 document. The office of management and budget shall make the fiscal  
 26 impact statement available to interested parties upon request. The  
 27 agency proposing the rule shall consider the fiscal impact statement as  
 28 part of the rulemaking process and shall provide the office of  
 29 management and budget with the information necessary to prepare the  
 30 fiscal impact statement, **comply with IC 4-3-22-13**, including any  
 31 economic impact statement **information** prepared by the agency under  
 32 IC 4-22-2.1-5. The office of management and budget may also receive  
 33 and consider applicable information from the regulated persons  
 34 affected by the rule in preparation of the fiscal impact statement.

35 (e) (d) With respect to a proposed rule subject to IC 13-14-9,

36 (1) the department of environmental management shall give  
 37 written notice to the office of management and budget of the  
 38 proposed date of preliminary adoption of the proposed rule not  
 39 less than sixty-six (66) days before that date. and

40 (2) the office of management and budget shall prepare the fiscal  
 41 impact statement referred to in subsection (d) not later than  
 42 twenty-one (21) days before the proposed date of preliminary

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adoption of the proposed rule:  
(f) In determining whether a proposed rule has a total estimated economic impact greater than five hundred thousand dollars (\$500,000), the agency proposing the rule shall consider the impact of the rule on any regulated person that already complies with the standards imposed by the rule on a voluntary basis:

- (g) For purposes of this section, a rule is fully implemented after:  
(1) the conclusion of any phase-in period during which:  
(A) the rule is gradually made to apply to certain regulated persons; or  
(B) the costs of the rule are gradually implemented; and  
(2) the rule applies to all regulated persons that will be affected by the rule.

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

**(e) Notwithstanding this section (as effective after June 30, 2013), this section (as effective before July 1, 2013) applies to a rule for which an agency is required to:**

- (1) submit the proposed version of the rule to the office of management and budget; or**  
**(2) give written notice to the office of management and budget of the proposed date of preliminary adoption of the proposed version of the rule;**

**under this section before July 1, 2013.**

SECTION 9. IC 4-22-2-32, AS AMENDED BY P.L.1-2006, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 32. (a) The attorney general shall review each rule submitted under section 31 of this chapter for legality.

(b) In the review, the attorney general shall determine whether the rule adopted by the agency complies with the requirements under section 29 of this chapter. The attorney general shall consider the following:

- (1) The extent to which all persons affected by the adopted rule should have understood from the published rule or rules that their interests would be affected.  
(2) The extent to which the subject matter of the adopted rule or

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- 1 the issues determined in the adopted rule are different from the  
 2 subject matter or issues that were involved in the published rule  
 3 or rules.
- 4 (3) The extent to which the effects of the adopted rule differ from  
 5 the effects that would have occurred if the published rule or rules  
 6 had been adopted instead.
- 7 In the review, the attorney general shall consider whether the adopted  
 8 rule may constitute the taking of property without just compensation to  
 9 an owner.
- 10 (c) Except as provided in subsections (d) and (h), the attorney  
 11 general shall disapprove a rule under this section only if it:
- 12 (1) has been adopted without statutory authority;  
 13 (2) has been adopted without complying with this chapter;  
 14 (3) does not comply with requirements under section 29 of this  
 15 chapter; or  
 16 (4) violates another law.
- 17 Otherwise, the attorney general shall approve the rule without making  
 18 a specific finding of fact concerning the subjects.
- 19 (d) If an agency submits a rule to the attorney general without  
 20 complying with section 20(a)(2) of this chapter, the attorney general  
 21 may:
- 22 (1) disapprove the rule; or  
 23 (2) return the rule to the agency without disapproving the rule.
- 24 (e) If the attorney general returns a rule under subsection (d)(2), the  
 25 agency may bring the rule into compliance with section 20(a)(2) of this  
 26 chapter and resubmit the rule to the attorney general without readopting  
 27 the rule.
- 28 (f) If the attorney general determines in the course of the review  
 29 conducted under subsection (b) that a rule may constitute a taking of  
 30 property, the attorney general shall advise the following:
- 31 (1) The governor.  
 32 (2) The agency head.
- 33 Advice given under this subsection shall be regarded as confidential  
 34 attorney-client communication.
- 35 (g) The attorney general has forty-five (45) days from the date that  
 36 an agency:
- 37 (1) submits a rule under section 31 of this chapter; or  
 38 (2) resubmits a rule under subsection (e);  
 39 to approve or disapprove the rule. If the attorney general neither  
 40 approves nor disapproves the rule, the rule is deemed approved, and the  
 41 agency may submit it to the governor for approval under section 33 of  
 42 this chapter without the approval of the attorney general.

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- 1 (h) For rules adopted under IC 13-14-9, the attorney general:
- 2 (1) shall determine whether the rule adopted by the agency under
- 3 IC 13-14-9-9(2) is a logical outgrowth of the proposed rule as
- 4 published under IC 13-14-9-5(a)(2) and of testimony presented at
- 5 the board meeting held under IC 13-14-9-5(a)(3); and
- 6 (2) may disapprove a rule under this section only if the rule:
- 7 (A) has been adopted without statutory authority;
- 8 (B) has been adopted without complying with this chapter or
- 9 IC 13-14-9;
- 10 (C) is not a logical outgrowth of the proposed rule as
- 11 published under IC 13-14-9-5(a)(2) and of the testimony
- 12 presented at the board meeting held under IC 13-14-9-5(a)(3);
- 13 or
- 14 (D) violates another law.

15 **(i) This subsection does not apply to a rule for which an agency**  
 16 **is required to:**

- 17 **(1) submit the proposed version of the rule to the OMB; or**
- 18 **(2) give written notice to the OMB of the proposed date of**  
 19 **preliminary adoption of the proposed version of the rule;**  
 20 **under section 28 of this chapter before July 1, 2013.**  
 21 **IC 4-3-22-13(g) applies to the approval of a rule under this section.**

22 SECTION 10. IC 4-22-2-40, AS AMENDED BY P.L.123-2006,  
 23 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2013]: Sec. 40. (a) At any time before a rule is accepted for  
 25 filing by the publisher under section 35, 37.1, or 38 of this chapter, the  
 26 agency that adopted the rule may recall it. A rule may be recalled  
 27 regardless of whether: it

- 28 **(1) the rule** has been disapproved by the attorney general under  
 29 section 32 of this chapter;
- 30 **(2) the administrative rules oversight committee established**  
 31 **by IC 2-5-18-4 has recommended under section 46 of this**  
 32 **chapter that the governor disapprove the rule; or**
- 33 **(3) the rule has been** disapproved by the governor under section  
 34 34 of this chapter.

35 (b) Sections 24 through 38 of this chapter do not apply to a recall  
 36 action under this section. However, the agency shall distribute a notice  
 37 of its recall action to the publisher for publication in the Indiana  
 38 Register. Sections 24 and 26 of this chapter do not apply to a  
 39 readoption action under subsection (c).

40 (c) After an agency recalls a rule, the agency may reconsider its  
 41 adoption action and adopt an identical rule or a revised rule. However,  
 42 if sections 24 through 36 of this chapter apply to the recalled rule, the

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1 readopted rule must comply with the requirements under section 29 of  
2 this chapter.

3 (d) The recall of a rule under this section voids any approval given  
4 after the rule was adopted and before the rule was recalled.

5 (e) If a rule is:

- 6 (1) subject to sections 31 and 33 of this chapter;
- 7 (2) recalled under subsection (a); and
- 8 (3) readopted under subsection (c);

9 the agency shall resubmit the readopted version of the recalled rule to  
10 **the office of management and budget for a determination as to**  
11 **whether the initial cost benefit analysis prepared for the rule under**  
12 **IC 4-3-22-13 needs to be revised and to** the attorney general and the  
13 governor for approval. The attorney general and the governor have the  
14 full statutory period to approve or disapprove the readopted rule. **The**  
15 **agency shall also provide the office of management and budget**  
16 **with sufficient information for the office of management and**  
17 **budget to evaluate whether its cost benefit analysis under**  
18 **IC 4-3-22-13 needs to be revised.** The agency also shall comply with  
19 any other applicable approval requirement provided by statute.

20 (f) The readopted version of a recalled rule is effective only after the  
21 agency has complied with section 35, 37.1, or 38 of this chapter.

22 SECTION 11. IC 4-22-2-46 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 46. (a) The  
24 administrative rules oversight committee shall carry out a program to  
25 review each **adopted** rule ~~adopted under this chapter~~ **(including a rule**  
26 **subject to IC 13-14-9)** that:

- 27 (1) **is required to be submitted to the attorney general under**  
28 **IC 4-22-2-31 and submitted to the governor under**  
29 **IC 4-22-2-33;**
- 30 (2) **is not a rule described in IC 4-3-22-13(e); and**
- 31 (3) has a ~~fiscal~~ **direct economic** impact of ~~more than~~ **at least** five  
32 hundred thousand dollars (\$500,000).

33 (b) **The administrative rules oversight committee may review**  
34 **under this section any proposed or adopted rule not described in**  
35 **subsection (a) for the purposes described in subsection (c)(1)**  
36 **through (c)(4).**

37 (c) **The administrative rules oversight committee shall review a**  
38 **rule under this section** for the following:

- 39 (1) **Direct** economic impact.
- 40 (2) Compliance with the intent of the general assembly.
- 41 (3) The extent to which the rule creates an unfunded mandate on  
42 any state agency or political subdivision.



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1 (4) The extent to which the rule complies with the standards in  
2 IC 4-22-2-19.5.

3 **(d) In the case of a proposed rule reviewed under this section,**  
4 **the administrative rules oversight committee may recommend that**  
5 **the proposed rule be approved or disapproved by the governor or**  
6 **take any other action permitted under IC 2-5-18.**

7 SECTION 12. IC 4-22-2.1-5, AS AMENDED BY P.L.110-2010,  
8 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2013]: Sec. 5. (a) If an agency intends to adopt a rule under  
10 IC 4-22-2 that will impose requirements or costs on small businesses,  
11 the agency shall prepare a statement that describes the annual  
12 economic impact of a rule on all small businesses after the rule is fully  
13 implemented as described in subsection (b). The statement required by  
14 this section must include the following:

15 (1) An estimate of the number of small businesses, classified by  
16 industry sector, that will be subject to the proposed rule.

17 (2) An estimate of the average annual reporting, record keeping,  
18 and other administrative costs that small businesses will incur to  
19 comply with the proposed rule.

20 (3) An estimate of the total annual economic impact that  
21 compliance with the proposed rule will have on all small  
22 businesses subject to the rule. The agency is not required to  
23 submit the proposed rule to the office of management and budget  
24 for a fiscal analysis under IC 4-22-2-28 ~~unless~~ **(as effective**  
25 **before July 1, 2013) only if the proposed rule is described in**  
26 **IC 4-22-2-28(e) and** the estimated economic impact of the rule  
27 is ~~greater~~ **not more** than five hundred thousand dollars  
28 (\$500,000) on all regulated entities, as set forth in IC 4-22-2-28  
29 **(as effective before July 1, 2013).**

30 (4) A statement justifying any requirement or cost that is:

31 (A) imposed on small businesses by the rule; and

32 (B) not expressly required by:

33 (i) the statute authorizing the agency to adopt the rule; or

34 (ii) any other state or federal law.

35 The statement required by this subdivision must include a  
36 reference to any data, studies, or analyses relied upon by the  
37 agency in determining that the imposition of the requirement or  
38 cost is necessary.

39 (5) A regulatory flexibility analysis that considers any less  
40 intrusive or less costly alternative methods of achieving the  
41 purpose of the proposed rule. The analysis under this subdivision  
42 must consider the following methods of minimizing the economic

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- 1 impact of the proposed rule on small businesses:
- 2 (A) The establishment of less stringent compliance or
- 3 reporting requirements for small businesses.
- 4 (B) The establishment of less stringent schedules or deadlines
- 5 for compliance or reporting requirements for small businesses.
- 6 (C) The consolidation or simplification of compliance or
- 7 reporting requirements for small businesses.
- 8 (D) The establishment of performance standards for small
- 9 businesses instead of design or operational standards imposed
- 10 on other regulated entities by the rule.
- 11 (E) The exemption of small businesses from part or all of the
- 12 requirements or costs imposed by the rule.

13 If the agency has made a preliminary determination not to  
 14 implement one (1) or more of the alternative methods considered,  
 15 the agency shall include a statement explaining the agency's  
 16 reasons for the determination, including a reference to any data,  
 17 studies, or analyses relied upon by the agency in making the  
 18 determination.

19 (b) For purposes of subsection (a), a proposed rule will be fully  
 20 implemented with respect to small businesses after:

- 21 (1) the conclusion of any phase-in period during which:
- 22 (A) the rule is gradually made to apply to small businesses or
- 23 certain types of small businesses; or
- 24 (B) the costs of the rule are gradually implemented; and
- 25 (2) the rule applies to all small businesses that will be affected by
- 26 the rule.

27 In determining the total annual economic impact of the rule under  
 28 subsection (a)(3), the agency shall consider the annual economic  
 29 impact on all small businesses beginning with the first twelve (12)  
 30 month period after the rule is fully implemented. The agency may use  
 31 actual or forecasted data and may consider the actual and anticipated  
 32 effects of inflation and deflation. The agency shall describe any  
 33 assumptions made and any data used in determining the total annual  
 34 economic impact of a rule under subsection (a)(3).

- 35 (c) The agency shall:
- 36 (1) publish the statement required under subsection (a) in the
- 37 Indiana Register as required by IC 4-22-2-24; and
- 38 (2) deliver a copy of the statement, along with the proposed rule,
- 39 to the small business ombudsman designated under IC 5-28-17-5
- 40 not later than the date of publication under subdivision (1).

41 SECTION 13. IC 13-14-9-4.2, AS AMENDED BY P.L.123-2006,  
 42 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2013]: Sec. 4.2. (a) **This subsection applies to a rule for**  
2 **which an agency is required to:**

3 (1) **submit the proposed version of the rule to the office of**  
4 **management and budget; or**

5 (2) **give written notice to the office of management and budget**  
6 **of the proposed date of preliminary adoption of the proposed**  
7 **version of the rule;**

8 **under IC 4-22-2-28 before July 1, 2013.** Not less than fourteen (14)  
9 days before the date of preliminary adoption of a proposed rule by a  
10 board, the department shall make available to the board the fiscal  
11 impact statement prepared by the office of management and budget  
12 with respect to the proposed rule under IC 4-22-2-28(e) **(as effective**  
13 **June 30, 2013).**

14 (b) **This subsection applies to a rule for which an agency is**  
15 **required to:**

16 (1) **submit the proposed version of the rule to the office of**  
17 **management and budget; or**

18 (2) **give written notice to the office of management and budget**  
19 **of the proposed date of preliminary adoption of the proposed**  
20 **version of the rule;**

21 **under IC 4-22-2-28 after June 30, 2013.** Not less than fourteen (14)  
22 **days before the date of preliminary adoption of a proposed rule by**  
23 **a board, the department shall make available to the board the**  
24 **direct economic impact statement prepared by the office of**  
25 **management and budget with respect to the proposed rule under**  
26 **IC 4-3-22-13.**

27 SECTION 14. IC 13-14-9-5, AS AMENDED BY P.L.123-2006,  
28 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2013]: Sec. 5. (a) A board may not adopt a rule until all of the  
30 following occur:

31 (1) The board holds a board meeting on the proposed rule.

32 (2) The department, after approval of the proposed rule by the  
33 board under subsection (c), publishes the following in the Indiana  
34 Register as provided in IC 4-22-2-24(c):

35 (A) The full text of the proposed rule, including any  
36 amendments arising from the comments received before or  
37 during the meeting held under subdivision (1).

38 (B) A summary of the response of the department to all  
39 comments received at the meeting held under subdivision (1).

40 (C) For a proposed rule with an estimated economic impact on  
41 regulated entities that is greater than five hundred thousand  
42 dollars (\$500,000); A copy of the office of management and

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budget fiscal analysis required under IC 4-22-2-28: described in section 4.2 of this chapter.

(3) The board, after publication of the notice under subdivision (2), holds another board meeting on the proposed rule.

(4) If a third public comment period is required under section 4.5 of this chapter, the department publishes notice of the third public comment period in the Indiana Register.

(b) Board meetings held under subsection (a)(1) and (a)(3) shall be conducted in accordance with IC 4-22-2-26(b) through IC 4-22-2-26(d).

(c) At a board meeting held under subsection (a)(1), the board shall determine whether the proposed rule will:

- (1) proceed to publication under subsection (a)(2);
- (2) be subject to additional comments under section 3 or 4 of this chapter, considering any written finding made by the commissioner under section 7 or 8 of this chapter; or
- (3) be reconsidered at a subsequent board meeting in accordance with IC 4-22-2-26(d).

SECTION 15. IC 13-14-9-6, AS AMENDED BY P.L.123-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. In addition to the requirements of section 8 of this chapter, the department shall include the following in the written materials to be considered at the board meetings held under section 5(a)(1) and 5(a)(3) of this chapter:

- (1) The full text of the proposed rule, as most recently prepared by the department.
  - (2) The written responses of the department to all comments received:
    - (A) during the immediately preceding comment period for a board meeting held under section 5(a)(1) of this chapter;
    - (B) during the immediately preceding board meeting under section 5(a)(1) of this chapter for a board meeting held under section 5(a)(3) of this chapter if a third public comment period is not required under section 4.5 of this chapter; or
    - (C) during:
      - (i) a third public comment period that address the portion of the preliminarily adopted rule that is substantively different from the language contained in the proposed rule published in a second notice under section 4 of this chapter; and
      - (ii) the immediately preceding board meeting held under section 5(a)(1) of this chapter;
- for a board meeting held under section 5(a)(3) of this chapter

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1                   if a third public comment period is required under section 4.5  
2                   of this chapter.

3                   (3) The full text of the office of management and budget fiscal  
4                   analysis if a fiscal analysis is required ~~under IC 4-22-2-28.~~ **as**  
5                   **described in section 4.2 of this chapter.**

6                   **SECTION 16. An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Select Committee on Government Reduction, to which was referred House Bill 1583, 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:

Page 4, line 17, delete "IC 4-22-2-31.5," and insert "**IC 4-22-2-28(c)**,".

Page 4, line 36, delete "rule." and insert "**rule filed with the publisher under IC 4-22-2-37.1**,".

Page 6, delete lines 16 through 42, begin a new paragraph and insert:

"SECTION 7. IC 4-22-2-28, AS AMENDED BY P.L.110-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 28. (a) The following definitions apply throughout this section:

(1) "Ombudsman" refers to the small business ombudsman designated under IC 5-28-17-5.

**(2) "Committee" refers to the administrative rules oversight committee established by IC 2-5-18-4.**

~~(2)~~ **(3)** "Total estimated economic impact" means the annual economic impact of a rule on all regulated persons after the rule is fully implemented under subsection (g).

(b) The ombudsman:

(1) shall review a proposed rule that:

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

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

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

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

(c) Subject to subsection (f) and not later than fifty (50) days before the public hearing required by section 26 of this chapter, an agency:

**(1)** shall submit a proposed rule to:

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(A) the office of management and budget for a review under subsection (d); **and**

**(B) in the case of a proposed rule described in IC 2-5-18-8(e), the committee for a review under section 32.5 of this chapter, subject to section 31.5 of this chapter;**

if the agency proposing the rule determines that the rule will have a total estimated economic impact greater than five hundred thousand dollars (\$500,000) on all regulated persons; **and**

**(2) in the case of a proposed rule described in IC 2-5-18-8(e), may submit the proposed rule to the committee for a review under section 32.5 of this chapter if the agency proposing the rule determines that the rule will have a total estimated economic impact of five hundred thousand dollars (\$500,000) or less on all regulated persons, subject to section 31.5 of this chapter.**

In determining the total estimated economic impact under this subsection, the agency shall consider any applicable information submitted by the regulated persons affected by the rule. To assist the office of management and budget in preparing the fiscal impact statement required by subsection (d) **and, if applicable, the committee in performing a review under section 32.5 of this chapter**, the agency shall submit, along with the proposed rule, the data used and assumptions made by the agency in determining the total estimated economic impact of the rule.

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

- (1) the state; and
- (2) all persons regulated by the proposed rule.

The fiscal impact statement must contain the total estimated economic impact of the proposed rule and a determination concerning the extent to which the proposed rule creates an unfunded mandate on a state agency or political subdivision. The fiscal impact statement is a public document. The office of management and budget shall make the fiscal impact statement available to interested parties upon request. The agency proposing the rule shall consider the fiscal impact statement as part of the rulemaking process and shall provide the office of

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management and budget with the information necessary to prepare the fiscal impact statement, including any economic impact statement prepared by the agency under IC 4-22-2.1-5. The office of management and budget may also receive and consider applicable information from the regulated persons affected by the rule in preparation of the fiscal impact statement.

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

- (1) the department of environmental management shall give written notice to the office of management and budget of the proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date; and
- (2) the office of management and budget shall prepare the fiscal impact statement referred to in subsection (d) not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule.

(f) In determining whether a proposed rule has a total estimated economic impact greater than five hundred thousand dollars (\$500,000), the agency proposing the rule shall consider the impact of the rule on any regulated person that already complies with the standards imposed by the rule on a voluntary basis.

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

- (1) the conclusion of any phase-in period during which:
  - (A) the rule is gradually made to apply to certain regulated persons; or
  - (B) the costs of the rule are gradually implemented; and
- (2) the rule applies to all regulated persons that will be affected by the rule.

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

SECTION 8. IC 4-22-2-31.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 31.5. (a) As used in this section, "committee" refers to the administrative rules oversight committee established by IC 2-5-18-4.**

**(b) This section applies to a proposed rule that:**

- (1) is described in IC 2-5-18-8(e); and**

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(2) under section 28(c) of this chapter, the agency proposing the rule:

(A) is required to; or

(B) elects to;

submit to the committee for a review under section 32.5 of this chapter.

(c) The agency proposing a rule subject to this section shall submit the rule to the committee under section 28(c) of this chapter after the agency has complied with section 29 of this chapter, or with IC 13-14-9-9(1) or IC 13-14-9-9(2), as applicable, and not later than the date on which the agency submits the rule to the attorney general under section 31 of this chapter. The agency shall submit the following to the committee:

(1) The rule in the form and format required by section 20 of this chapter.

(2) The documents required by section 21 of this chapter.

(3) Written authorization to proceed issued by the publisher under section 24(g) of this chapter.

(4) The fiscal impact statement prepared for the rule by the office of management and budget under section 28(d) of this chapter.

(5) Any other documents specified by the committee.

The committee may require the agency to submit any supporting documentation that the committee considers necessary for the committee's review under section 32.5 of this chapter. The agency may submit any additional supporting documentation the agency considers necessary."

Delete pages 7 through 8.

Page 9, delete lines 1 through 25.

Page 9, line 32, delete "31.5" and insert "28(c)".

Page 9, line 36, delete "31.5" and insert "28(c)".

Page 10, line 15, after "committee" insert "established by IC 2-5-18-4".

Page 10, line 36, after "to" insert "the administrative rules oversight committee established by IC 2-5-18-4 for review and to".

Page 10, line 37, delete "general, the administrative rules oversight committee" and insert "general".

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Page 10, line 38, delete "established by IC 2-5-18-4,".  
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1583 as introduced.)

STEMLER, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred House Bill No. 1583, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1583 as printed February 12, 2013.)

ALTING, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1583 be amended to read as follows:

Page 2, delete lines 12 through 42, begin a new paragraph and insert:

"SECTION 2. IC 2-5-18-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The speaker of the house of representatives shall appoint a member of the committee to be the chair of the committee ~~during the first regular session of each general assembly. The member appointed to be chair by the speaker serves as chair until the beginning of the second regular session of that general assembly.~~ **for a term beginning on July 15 in an odd-numbered year and ending on July 14 in an even-numbered year.**

(b) The president pro tempore of the senate shall appoint a member of the committee to be chair of the committee ~~during the second regular session of each general assembly. The member appointed to be chair~~

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by the president pro tempore serves as chair until the election of the next general assembly: for a term beginning on July 15 in an even-numbered year and ending on July 14 in an odd-numbered year.

(c) A vacancy in the position of chair of the committee resulting from an intervening general election or any other reason shall be filled for the remainder of the unexpired term by the appointing authority for that term of office.

(d) The committee shall meet to organize on the call of the chair. **In calendar year 2013, the organizational meeting must be held not later than July 15, 2013. After calendar year 2013, the organizational meeting must be held** not later than December 15 of each even-numbered year. The committee shall meet at the call of the chair."

Delete page 3.

Page 4, delete lines 1 through 5.

Page 4, line 10, delete "subsection (e)," and insert "**IC 4-22-2-46**,"

Page 4, line 16, delete "described in subsection (e)" and insert "**reviewed under IC 4-22-2-46**,"

Page 4, line 17, delete "and submitted to the committee under IC 4-22-2-28(c)."

Page 4, delete lines 23 through 39, begin a new paragraph and insert:

"SECTION 4. IC 4-3-22-13, AS AMENDED BY P.L.131-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) Except as provided in **subsection subsections (e) and (f)**, the OMB shall perform a cost benefit analysis upon each proposed rule **(including a proposed rule subject to IC 13-14-9) that is required to be submitted to the attorney general under IC 4-22-2-31 and submitted to the governor under IC 4-22-2-33** and provide **the analysis** to:

(1) the governor; and

(2) the administrative rules oversight committee established under IC 2-5-18.

**an assessment of the rule's effect on Indiana business. The OMB may perform a cost benefit analysis under this section for any other rule.** The OMB shall submit **the a cost benefit analysis under this section, including any revised cost benefit analysis**, to the **administrative rules oversight** committee in an electronic format under IC 5-14-6 as soon as practicable after the analysis is prepared.

(b) After June 30, 2005, the cost benefit analysis performed by the



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OMB under this section with respect to any proposed rule ~~that has an impact of at least five hundred thousand dollars (\$500,000)~~ shall replace and be used for all purposes under IC 4-22-2 in lieu of the fiscal analysis previously performed by the legislative services agency under IC 4-22-2.

(c) **Section 13.2 of this chapter applies to a cost benefit analysis prepared under this section.** In preparing a cost benefit analysis under this section, the OMB **also** shall consider in its analysis any verified data provided voluntarily by interested parties, regulated persons, and nonprofit corporations whose members may be affected by the proposed rule. 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.

If an agency has adopted rules to implement IC 5-14-3-4, interested parties and regulated persons must submit the information in accordance with the confidentiality rules adopted by the agency to ensure proper processing of confidentiality claims. The OMB and any agency involved in proposing the rule, or in administering the rule upon the rule's adoption, 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 proposed rule ~~at least thirty (30) days before presenting not later than the date the OMB presents~~ the cost benefit analysis to the governor and the administrative rules oversight committee under subsection (a).

~~(d)~~ If the OMB or an agency is unable to obtain verified data for the cost benefit analysis described in **this** subsection, ~~(c)~~; the OMB shall state in the cost benefit analysis which data were unavailable for

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purposes of the cost benefit analysis.

**(d) The cost benefit analysis information provided to the administrative rules oversight committee in an electronic format under IC 5-14-6 under subsection (a) must include:**

- (1) The document number for the proposed rule assigned by the publisher of the Indiana Register.**
- (2) A statement of the direct economic impact of the proposed rule.**
- (3) A detailed description of the estimation methodology and assumptions for the direct economic impact statement.**
- (4) Any verified data obtained by the OMB under subsection (c), including any in connection with the direct economic impact statement.**
- (5) Any other materials, documents, data, and other supporting information:**
  - (A) generated by the OMB; or**
  - (B) obtained from the agency or from the small business ombudsman designated under IC 5-28-17-5;****as part of the cost benefit analysis.**

However, if the cost benefit analysis is revised, the OMB may submit only the information related to the revisions. The information described in subdivisions (3) and (4) shall be submitted to the administrative rules oversight committee regardless of whether the agency or the OMB uses the information in developing an economic impact assessment or a cost benefit analysis statement and regardless of whether the information is confidential information. Confidential information submitted to the administrative rules oversight committee shall be treated as confidential by the administrative rules oversight committee and all employees, contractors, and members of the general assembly.

**(e) If the OMB finds that a proposed rule is:**

- (1) an adoption or incorporation by reference of a federal law, regulation, or rule that has no substantive effect on the scope or intended application of the federal law or rule; or**
- (2) a technical amendment with no substantive effect on an existing Indiana rule;**

the OMB may not prepare a cost benefit analysis of the rule under this section. The agency shall submit the proposed rule to the OMB with a statement explaining how the proposed rule meets the requirements of this subsection. If the OMB finds that the rule meets the requirements of this subsection, the OMB shall provide its findings to the governor and to the committee in an electronic format under IC 5-14-6. If the

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agency amends or modifies the proposed rule after the OMB finds that a cost benefit analysis may not be prepared for the rule, the agency shall resubmit the proposed rule to the OMB either for a new determination that the rule meets the requirements of this subsection, or for the OMB to prepare a cost benefit analysis of the rule under this section.

**(f) This section (as effective before July 1, 2013) and IC 4-22-2-28 (as effective before July 1, 2013) apply to a rule for which an agency is required to:**

- (1) submit the proposed version of the rule to the OMB; or**
- (2) give written notice to the OMB of the proposed date of preliminary adoption of the proposed version of the rule; under IC 4-22-2-28 before July 1, 2013.**

**(g) This subsection does not apply to a rule described in subsection (f). Upon receipt by the administrative rules oversight committee, in an electronic format under IC 5-14-6, of:**

- (1) the initial cost benefit analysis required under subsection (a) and the information required under subsection (d) (excluding any later revised cost benefit analysis prepared for a finally adopted rule); or**
- (2) the findings for a rule under subsection (e);**

**the legislative services agency, acting for the administrative rules oversight committee, shall notify the attorney general by electronic or other means that the administrative rules oversight committee has received the information. The attorney general may not approve a rule under IC 4-22-2-32 until the attorney general receives from the legislative services agency the notice for the rule required by this subsection.**

**SECTION 5. IC 4-3-22-13.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13.2. (a) This section applies to a rule for which an agency is required to:**

- (1) submit the proposed version of the rule to the OMB; or**
- (2) give written notice to the OMB of the proposed date of preliminary adoption of the proposed version of the rule; under IC 4-22-2-28 after June 30, 2013.**

**(b) Except as provided in subsection (c), before the adoption of a rule, and not more than forty-five (45) days after receiving a proposed rule under IC 4-22-2-28, the OMB shall prepare a cost benefit analysis of the rule under section 13 of this chapter. If the OMB discovers an error in a cost benefit analysis or a proposed rule is revised after the initial cost benefit analysis is prepared but**



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before the proposed rule is:

- (1) initially submitted to the attorney general for approval under IC 4-22-2-31; or
- (2) submitted to the attorney general for approval under IC 4-22-2-31 after the proposed rule has been recalled under IC 4-22-2-40;

in a manner that would substantially affect the conclusions of the cost benefit analysis, the OMB shall revise the cost benefit analysis to reflect the changes in the rule finally adopted by the agency and submit the revised analysis to the administrative rules oversight committee in an electronic format under IC 5-14-6 and to the governor as soon as practicable after the revised analysis is prepared.

(c) With respect to a proposed rule subject to IC 13-14-9, the OMB shall prepare the cost benefit analysis under section 13 of this chapter not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule.

(d) The cost benefit analysis for a rule must include an analysis of the rule's annual direct economic impact on the state, political subdivisions, Indiana business, and any other regulated persons during any phase-in period and after the rule is fully implemented. For purposes of this subsection, a rule is fully implemented after:

- (1) the conclusion of any phase-in period during which:
  - (A) the rule is gradually made to apply to certain regulated persons; or
  - (B) the costs of the rule are gradually implemented; and
- (2) the rule applies to all regulated persons that will be affected by the rule.

(e) To the extent possible, the cost benefit analysis must quantify benefits separately from the costs and identify the costs and benefits to the state, political subdivisions, Indiana businesses, and other regulated persons or beneficiaries separately.

(f) The OMB shall consider the impact of the rule on any regulated person that already complies with the standards imposed by the rule on a voluntary basis as a factor that reduces the cost of implementing a rule. The OMB may use actual or forecasted data and may consider the actual and anticipated effects of inflation and deflation.

(g) The cost benefit analysis must also include a determination concerning the extent to which the proposed rule creates an unfunded mandate on a state agency or political subdivision.

(h) The cost benefit analysis may include other information

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related to the rule's effect on Indiana business or on other regulated or benefitted persons.

**(i) In the cost benefit analysis, the OMB shall describe any assumptions made and any data used in determining the cost and benefits of a rule and the estimation methodology used by the OMB."**

Page 6, delete lines 17 through 42, begin a new paragraph and insert:

"SECTION 7. IC 4-22-2-28, AS AMENDED BY P.L.110-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 28. (a) The following definitions apply throughout this section:

(1) "Ombudsman" refers to the small business ombudsman designated under IC 5-28-17-5.

(2) "Total estimated economic impact" means the annual economic impact of a rule on all regulated persons after the rule is fully implemented under subsection (g).

(b) The ombudsman:

(1) shall review a proposed rule that:

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

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

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

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

~~(c) Subject to subsection (f) and~~ Not later than fifty (50) days before the public hearing required by section 26 of this chapter, an agency shall submit a proposed rule to the office of management and budget for a review under ~~subsection (d) if the agency proposing the rule determines that the rule will have a total estimated economic impact greater than five hundred thousand dollars (\$500,000) on all regulated persons. In determining the total estimated economic impact under this subsection, the agency shall consider any applicable information submitted by the regulated persons affected by the rule. To assist the~~

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office of management and budget in preparing the fiscal impact statement required by subsection (d); The agency shall submit, along with the proposed rule; the data used and assumptions made by the agency in determining the total estimated economic impact of the rule. **IC 4-3-22-13.**

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

- (1) the state; and
- (2) all persons regulated by the proposed rule.

The fiscal impact statement must contain the total estimated economic impact of the proposed rule and a determination concerning the extent to which the proposed rule creates an unfunded mandate on a state agency or political subdivision. The fiscal impact statement is a public document. The office of management and budget shall make the fiscal impact statement available to interested parties upon request. The agency proposing the rule shall consider the fiscal impact statement as part of the rulemaking process and shall provide the office of management and budget with the information necessary to prepare the fiscal impact statement; **comply with IC 4-3-22-13**, including any economic impact statement **information** prepared by the agency under IC 4-22-2.1-5. The office of management and budget may also receive and consider applicable information from the regulated persons affected by the rule in preparation of the fiscal impact statement.

- (e) (d) With respect to a proposed rule subject to IC 13-14-9,
- (1) the department of environmental management shall give written notice to the office of management and budget of the proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date. **and**
  - (2) the office of management and budget shall prepare the fiscal impact statement referred to in subsection (d) not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule.

(f) In determining whether a proposed rule has a total estimated economic impact greater than five hundred thousand dollars (\$500,000); the agency proposing the rule shall consider the impact of the rule on any regulated person that already complies with the

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standards imposed by the rule on a voluntary basis:

- (g) For purposes of this section, a rule is fully implemented after:
- (1) the conclusion of any phase-in period during which:
    - (A) the rule is gradually made to apply to certain regulated persons; or
    - (B) the costs of the rule are gradually implemented; and
  - (2) the rule applies to all regulated persons that will be affected by the rule.

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

**(e) Notwithstanding this section (as effective after June 30, 2013), this section (as effective before July 1, 2013) applies to a rule for which an agency is required to:**

- (1) submit the proposed version of the rule to the office of management and budget; or**
- (2) give written notice to the office of management and budget of the proposed date of preliminary adoption of the proposed version of the rule;**

**under this section before July 1, 2013.**

SECTION 8. IC 4-22-2-32, AS AMENDED BY P.L.1-2006, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 32. (a) The attorney general shall review each rule submitted under section 31 of this chapter for legality.

(b) In the review, the attorney general shall determine whether the rule adopted by the agency complies with the requirements under section 29 of this chapter. The attorney general shall consider the following:

- (1) The extent to which all persons affected by the adopted rule should have understood from the published rule or rules that their interests would be affected.
- (2) The extent to which the subject matter of the adopted rule or the issues determined in the adopted rule are different from the subject matter or issues that were involved in the published rule or rules.
- (3) The extent to which the effects of the adopted rule differ from the effects that would have occurred if the published rule or rules



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had been adopted instead.

In the review, the attorney general shall consider whether the adopted rule may constitute the taking of property without just compensation to an owner.

(c) Except as provided in subsections (d) and (h), the attorney general shall disapprove a rule under this section only if it:

- (1) has been adopted without statutory authority;
- (2) has been adopted without complying with this chapter;
- (3) does not comply with requirements under section 29 of this chapter; or
- (4) violates another law.

Otherwise, the attorney general shall approve the rule without making a specific finding of fact concerning the subjects.

(d) If an agency submits a rule to the attorney general without complying with section 20(a)(2) of this chapter, the attorney general may:

- (1) disapprove the rule; or
- (2) return the rule to the agency without disapproving the rule.

(e) If the attorney general returns a rule under subsection (d)(2), the agency may bring the rule into compliance with section 20(a)(2) of this chapter and resubmit the rule to the attorney general without readopting the rule.

(f) If the attorney general determines in the course of the review conducted under subsection (b) that a rule may constitute a taking of property, the attorney general shall advise the following:

- (1) The governor.
- (2) The agency head.

Advice given under this subsection shall be regarded as confidential attorney-client communication.

(g) The attorney general has forty-five (45) days from the date that an agency:

- (1) submits a rule under section 31 of this chapter; or
- (2) resubmits a rule under subsection (e);

to approve or disapprove the rule. If the attorney general neither approves nor disapproves the rule, the rule is deemed approved, and the agency may submit it to the governor for approval under section 33 of this chapter without the approval of the attorney general.

(h) For rules adopted under IC 13-14-9, the attorney general:

- (1) shall determine whether the rule adopted by the agency under IC 13-14-9-9(2) is a logical outgrowth of the proposed rule as published under IC 13-14-9-5(a)(2) and of testimony presented at the board meeting held under IC 13-14-9-5(a)(3); and

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- (2) may disapprove a rule under this section only if the rule:
- (A) has been adopted without statutory authority;
  - (B) has been adopted without complying with this chapter or IC 13-14-9;
  - (C) is not a logical outgrowth of the proposed rule as published under IC 13-14-9-5(a)(2) and of the testimony presented at the board meeting held under IC 13-14-9-5(a)(3); or
  - (D) violates another law.

**(i) This subsection does not apply to a rule for which an agency is required to:**

- (1) submit the proposed version of the rule to the OMB; or**
- (2) give written notice to the OMB of the proposed date of preliminary adoption of the proposed version of the rule; under section 28 of this chapter before July 1, 2013. IC 4-3-22-13(g) applies to the approval of a rule under this section."**

Delete pages 7 through 9.

Page 10, delete lines 1 through 11.

Page 10, delete line 20.

Page 10, line 21, delete "chapter," , begin a new line block indented and insert:

**"(2)".**

Page 10, line 23, delete "32.5" and insert "46".

Page 10, line 39, delete "31, 31.5," and insert "31".

Page 11, line 1, delete "administrative rules oversight committee established by" and insert **"office of management and budget for a determination as to whether the initial cost benefit analysis prepared for the rule under IC 4-3-22-13 needs to be revised"**.

Page 11, line 2, delete "IC 2-5-18-4 for review".

Page 11, line 4, after "rule." insert **"The agency shall also provide the office of management and budget with sufficient information for the office of management and budget to evaluate whether its cost benefit analysis under IC 4-3-22-13 needs to be revised."**

Page 11, between lines 8 and 9, begin a new paragraph and insert:

**"SECTION 10. IC 4-22-2-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 46. (a) The administrative rules oversight committee shall carry out a program to review each adopted rule adopted under this chapter (including a rule subject to IC 13-14-9) that:**

- (1) is required to be submitted to the attorney general under IC 4-22-2-31 and submitted to the governor under**



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**IC 4-22-2-33;**

**(2) is not a rule described in IC 4-3-22-13(e); and**

**(3) has a fiscal direct economic impact of more than at least five hundred thousand dollars (\$500,000).**

**(b) The administrative rules oversight committee may review under this section any proposed or adopted rule not described in subsection (a) for the purposes described in subsection (c)(1) through (c)(4).**

**(c) The administrative rules oversight committee shall review a rule under this section for the following:**

- (1) **Direct** economic impact.
- (2) Compliance with the intent of the general assembly.
- (3) The extent to which the rule creates an unfunded mandate on any state agency or political subdivision.
- (4) The extent to which the rule complies with the standards in IC 4-22-2-19.5.

**(d) In the case of a proposed rule reviewed under this section, the administrative rules oversight committee may recommend that the proposed rule be approved or disapproved by the governor or take any other action permitted under IC 2-5-18.**

SECTION 11. IC 4-22-2.1-5, AS AMENDED BY P.L.110-2010, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) If an agency intends to adopt a rule under IC 4-22-2 that will impose requirements or costs on small businesses, the agency shall prepare a statement that describes the annual economic impact of a rule on all small businesses after the rule is fully implemented as described in subsection (b). The statement required by this section must include the following:

- (1) An estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.
- (2) An estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.
- (3) An estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule. The agency is not required to submit the proposed rule to the office of management and budget for a fiscal analysis under IC 4-22-2-28 ~~unless~~ **(as effective before July 1, 2013) only if the proposed rule is described in IC 4-22-2-28(e) and** the estimated economic impact of the rule is ~~greater~~ **not more** than five hundred thousand dollars (\$500,000) on all regulated entities, as set forth in IC 4-22-2-28

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**(as effective before July 1, 2013).**

- (4) A statement justifying any requirement or cost that is:
- (A) imposed on small businesses by the rule; and
  - (B) not expressly required by:
    - (i) the statute authorizing the agency to adopt the rule; or
    - (ii) any other state or federal law.

The statement required by this subdivision must include a reference to any data, studies, or analyses relied upon by the agency in determining that the imposition of the requirement or cost is necessary.

(5) A regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The analysis under this subdivision must consider the following methods of minimizing the economic impact of the proposed rule on small businesses:

- (A) The establishment of less stringent compliance or reporting requirements for small businesses.
- (B) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.
- (C) The consolidation or simplification of compliance or reporting requirements for small businesses.
- (D) The establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.
- (E) The exemption of small businesses from part or all of the requirements or costs imposed by the rule.

If the agency has made a preliminary determination not to implement one (1) or more of the alternative methods considered, the agency shall include a statement explaining the agency's reasons for the determination, including a reference to any data, studies, or analyses relied upon by the agency in making the determination.

(b) For purposes of subsection (a), a proposed rule will be fully implemented with respect to small businesses after:

- (1) the conclusion of any phase-in period during which:
  - (A) the rule is gradually made to apply to small businesses or certain types of small businesses; or
  - (B) the costs of the rule are gradually implemented; and
- (2) the rule applies to all small businesses that will be affected by the rule.

In determining the total annual economic impact of the rule under subsection (a)(3), the agency shall consider the annual economic

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impact on all small businesses beginning with the first twelve (12) month period after the rule is fully implemented. The agency may use actual or forecasted data and may consider the actual and anticipated effects of inflation and deflation. The agency shall describe any assumptions made and any data used in determining the total annual economic impact of a rule under subsection (a)(3).

(c) The agency shall:

- (1) publish the statement required under subsection (a) in the Indiana Register as required by IC 4-22-2-24; and
- (2) deliver a copy of the statement, along with the proposed rule, to the small business ombudsman designated under IC 5-28-17-5 not later than the date of publication under subdivision (1).

SECTION 12. IC 13-14-9-4.2, AS AMENDED BY P.L.123-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4.2. **(a) This subsection applies to a rule for which an agency is required to:**

- (1) submit the proposed version of the rule to the office of management and budget; or**
- (2) give written notice to the office of management and budget of the proposed date of preliminary adoption of the proposed version of the rule;**

**under IC 4-22-2-28 before July 1, 2013.** Not less than fourteen (14) days before the date of preliminary adoption of a proposed rule by a board, the department shall make available to the board the fiscal impact statement prepared by the office of management and budget with respect to the proposed rule under IC 4-22-2-28(e) **(as effective June 30, 2013).**

**(b) This subsection applies to a rule for which an agency is required to:**

- (1) submit the proposed version of the rule to the office of management and budget; or**
- (2) give written notice to the office of management and budget of the proposed date of preliminary adoption of the proposed version of the rule;**

**under IC 4-22-2-28 after June 30, 2013.** Not less than fourteen (14) days before the date of preliminary adoption of a proposed rule by a board, the department shall make available to the board the direct economic impact statement prepared by the office of management and budget with respect to the proposed rule under IC 4-3-22-13.

SECTION 13. IC 13-14-9-5, AS AMENDED BY P.L.123-2006, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



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JULY 1, 2013]: Sec. 5. (a) A board may not adopt a rule until all of the following occur:

- (1) The board holds a board meeting on the proposed rule.
- (2) The department, after approval of the proposed rule by the board under subsection (c), publishes the following in the Indiana Register as provided in IC 4-22-2-24(c):
  - (A) The full text of the proposed rule, including any amendments arising from the comments received before or during the meeting held under subdivision (1).
  - (B) A summary of the response of the department to all comments received at the meeting held under subdivision (1).
  - (C) ~~For a proposed rule with an estimated economic impact on regulated entities that is greater than five hundred thousand dollars (\$500,000);~~ A copy of the office of management and budget fiscal analysis ~~required under IC 4-22-2-28:~~ **described in section 4.2 of this chapter.**
- (3) The board, after publication of the notice under subdivision (2), holds another board meeting on the proposed rule.
- (4) If a third public comment period is required under section 4.5 of this chapter, the department publishes notice of the third public comment period in the Indiana Register.

(b) Board meetings held under subsection (a)(1) and (a)(3) shall be conducted in accordance with IC 4-22-2-26(b) through IC 4-22-2-26(d).

(c) At a board meeting held under subsection (a)(1), the board shall determine whether the proposed rule will:

- (1) proceed to publication under subsection (a)(2);
- (2) be subject to additional comments under section 3 or 4 of this chapter, considering any written finding made by the commissioner under section 7 or 8 of this chapter; or
- (3) be reconsidered at a subsequent board meeting in accordance with IC 4-22-2-26(d).

SECTION 14. IC 13-14-9-6, AS AMENDED BY P.L.123-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. In addition to the requirements of section 8 of this chapter, the department shall include the following in the written materials to be considered at the board meetings held under section 5(a)(1) and 5(a)(3) of this chapter:

- (1) The full text of the proposed rule, as most recently prepared by the department.
- (2) The written responses of the department to all comments received:

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- (A) during the immediately preceding comment period for a board meeting held under section 5(a)(1) of this chapter;
- (B) during the immediately preceding board meeting under section 5(a)(1) of this chapter for a board meeting held under section 5(a)(3) of this chapter if a third public comment period is not required under section 4.5 of this chapter; or
- (C) during:
  - (i) a third public comment period that address the portion of the preliminarily adopted rule that is substantively different from the language contained in the proposed rule published in a second notice under section 4 of this chapter; and
  - (ii) the immediately preceding board meeting held under section 5(a)(1) of this chapter;for a board meeting held under section 5(a)(3) of this chapter if a third public comment period is required under section 4.5 of this chapter.

(3) The full text of the office of management and budget fiscal analysis if a fiscal analysis is required ~~under IC 4-22-2-28.~~ **as described in section 4.2 of this chapter."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1583 as printed March 22, 2013.)

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