



Reprinted
January 18, 2013

HOUSE BILL No. 1024

DIGEST OF HB 1024 (Updated January 17, 2013 12:45 pm - DI 14)

Citations Affected: IC 4-3.

Synopsis: Private sector impacts of administrative rules. Provides that for the required cost benefit analysis prepared by the office of management and budget (OMB) for a proposed administrative rule, an analysis prepared after June 30, 2013, must include a private sector employment impact statement that sets forth the OMB's estimate of the economic impact of the proposed rule on private sector employment in Indiana. Specifies the particular impacts that the OMB must identify in the statement. Provides that if the OMB determines that the preparation of a private sector employment impact statement is unnecessary or impractical with respect to a particular proposed rule, the OMB may decline to prepare a statement with respect to the rule. Provides that for the required cost benefit analysis prepared by the OMB for the three year period following an adopted rule's effective date, an analysis prepared after June 30, 2013, must include: (1) the private sector employment impact statement, if any, prepared by the OMB before the rule's adoption; and (2) the actual economic impact of the adopted rule on private sector employment during the three year period covered by the analysis.

Effective: July 1, 2013.

Koch, Harman, Truitt, Ober

January 7, 2013, read first time and referred to Committee on Government and Regulatory Reform.
January 15, 2013, reported — Do Pass.
January 17, 2013, read second time, amended, ordered engrossed.

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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.

HOUSE BILL No. 1024

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-3-22-13, AS AMENDED BY P.L.131-2012,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 13. **(a) As used in this section, "committee"**
4 **refers to the administrative rules oversight committee established**
5 **by IC 2-5-18-4.**
6 ~~(a)~~ **(b)** Except as provided in subsection ~~(e)~~; **(g)**, the OMB shall
7 perform a cost benefit analysis upon each proposed rule and provide to:
8 (1) the governor; and
9 (2) the ~~administrative rules oversight~~ committee; ~~established~~
10 ~~under IC 2-5-18;~~
11 an assessment of the rule's effect on Indiana business. The OMB shall
12 submit the cost benefit analysis to the committee in an electronic
13 format under IC 5-14-6.
14 ~~(b)~~ **(c)** After June 30, 2005, the cost benefit analysis performed by
15 the OMB under this section with respect to any proposed rule that has
16 ~~an a total estimated economic~~ impact **(as defined in IC 4-22-2-28)** of
17 at least five hundred thousand dollars (\$500,000) **on all regulated**

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1 persons shall replace and be used for all purposes under IC 4-22-2 in
 2 lieu of the fiscal analysis previously performed by the legislative
 3 services agency under ~~IC 4-22-2~~. **IC 4-22-2-28.**

4 **(d) This subsection applies to a cost benefit analysis prepared by**
 5 **the OMB under this section after June 30, 2013. As used in this**
 6 **subsection, "fully implemented", with respect to a proposed rule,**
 7 **has the meaning set forth in IC 4-22-2-28(g). A cost benefit analysis**
 8 **to which this subsection applies must include a private sector**
 9 **employment impact statement that includes an estimate by the**
 10 **OMB of the economic impact of the proposed rule on private sector**
 11 **employment in Indiana, including self-employment and areas for**
 12 **potential employment growth. In the private sector employment**
 13 **impact statement required under this subsection, the OMB shall**
 14 **describe and quantify, to the extent possible, the nature of the**
 15 **impact the proposed rule will have on private sector jobs and**
 16 **employment opportunities in Indiana, and shall identify the**
 17 **following with respect to the proposed rule:**

18 (1) The categories or industry sectors, including the
 19 manufacturing and agricultural sectors, if applicable, of jobs
 20 and employment opportunities affected by the proposed rule.

21 (2) Within each category or industry sector identified under
 22 subdivision (1), the number of jobs or potential job
 23 opportunities affected by the proposed rule.

24 (3) The regions of Indiana affected by the proposed rule.

25 (4) The impact of the rule on the expansion or retention of
 26 existing businesses or facilities.

27 (5) The total estimated economic impact (as defined in
 28 IC 4-22-2-28(a)) of the proposed rule with respect to private
 29 sector employment in Indiana, beginning with the first twelve
 30 (12) month period after the rule is fully implemented.

31 In preparing the estimates required under subdivisions (1) through
 32 (5), the OMB may use actual or forecasted data and may consider
 33 the actual and anticipated effects of inflation and deflation. The
 34 OMB shall describe any assumptions made and any data used in
 35 preparing a private sector employment impact statement under
 36 this subsection. However, if the OMB determines that the
 37 preparation of a private sector employment impact statement
 38 under this subsection is unnecessary or impractical with respect to
 39 a particular proposed rule, the OMB may decline to prepare a
 40 private sector employment impact statement with respect to that
 41 rule. If the OMB declines to prepare a private sector employment
 42 impact statement for a proposed rule, the OMB must include, in



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1 **the cost benefit analysis prepared under this section, a statement**
 2 **explaining the OMB's determination that the preparation of a**
 3 **private sector employment impact statement under this subsection**
 4 **is unnecessary or impractical with respect to the rule.**

5 ~~(e)~~ (e) In preparing a cost benefit analysis under this section, the
 6 OMB shall consider in its analysis any verified data provided
 7 voluntarily by interested parties, regulated persons, and nonprofit
 8 corporations whose members may be affected by the proposed rule. A
 9 cost benefit analysis prepared under this section is a public document,
 10 subject to the following:

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

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

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

22 If an agency has adopted rules to implement IC 5-14-3-4,
 23 interested parties and regulated persons must submit the
 24 information in accordance with the confidentiality rules adopted
 25 by the agency to ensure proper processing of confidentiality
 26 claims. The OMB and any agency involved in proposing the rule,
 27 or in administering the rule upon the rule's adoption, shall
 28 exercise all necessary caution to avoid disclosure of any
 29 confidential information supplied to the OMB or the agency by an
 30 interested party or a regulated person.

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

38 ~~(d)~~ (f) If the OMB or an agency is unable to obtain verified data for
 39 the cost benefit analysis described in ~~subsection (e)~~, **this section**, the
 40 OMB shall state in the cost benefit analysis which data were
 41 unavailable for purposes of the cost benefit analysis.

42 ~~(e)~~ (g) If the OMB finds that a proposed rule is:

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

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

6 the OMB may not prepare a cost benefit analysis of the rule under this
7 section. The agency shall submit the proposed rule to the OMB with a
8 statement explaining how the proposed rule meets the requirements of
9 this subsection. If the OMB finds that the rule meets the requirements
10 of this subsection, the OMB shall provide its findings to the governor
11 and to the committee in an electronic format under IC 5-14-6. If the
12 agency amends or modifies the proposed rule after the OMB finds that
13 a cost benefit analysis may not be prepared for the rule, the agency
14 shall resubmit the proposed rule to the OMB either for a new
15 determination that the rule meets the requirements of this subsection,
16 or for the OMB to prepare a cost benefit analysis of the rule under this
17 section.

18 SECTION 2. IC 4-3-22-13.1, AS ADDED BY P.L.131-2012,
19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2013]: Sec. 13.1. (a) This section applies to a rule that:

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

22 (2) has taken effect;

23 after December 31, 2011.

24 (b) This section does not apply to a rule for which the OMB has not
25 performed a cost benefit analysis under section ~~13(e)~~ 13 of this chapter.

26 (c) As used in this section, "committee" refers to the administrative
27 rules oversight committee established by IC 2-5-18-4.

28 (d) For each rule to which this section applies, the OMB shall
29 perform a cost benefit analysis of the rule with respect to the period
30 encompassing the first three (3) years following the rule's effective
31 date. Except as otherwise required by the governor or the committee
32 under subsection (h), the OMB shall submit a cost benefit analysis
33 prepared under this section to:

34 (1) the governor; and

35 (2) the committee;

36 not later than six (6) months after the third anniversary of the rule's
37 effective date. The OMB shall submit the cost benefit analysis to the
38 committee in an electronic format under IC 5-14-6.

39 (e) A cost benefit analysis prepared under this section must include
40 the following with respect to the three (3) year period covered by the
41 analysis:

42 (1) The cost benefit analysis for the rule prepared under section

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- 1 13 of this chapter before the rule's adoption, including the
 2 following:
- 3 (A) The information required by Financial Management
 4 Circular #2010-4.
- 5 (B) The estimate of the primary and direct benefits of the rule,
 6 including the impact on:
- 7 (i) consumer protection;
 8 (ii) worker safety;
 9 (iii) the environment; and
 10 (iv) business competitiveness;
 11 as determined before the rule's adoption.
- 12 (C) The estimate of the secondary or indirect benefits of the
 13 rule and the explanation of how the conduct regulated by the
 14 rule is linked to the primary and secondary benefits, as
 15 determined before the rule's adoption.
- 16 (D) The estimate of any cost savings to regulated persons
 17 (including individuals and businesses) as a result of the rule,
 18 including any savings from:
- 19 (i) a change in an existing requirement; or
 20 (ii) the imposition of a new requirement;
 21 as determined before the rule's adoption.
- 22 **(E) For a cost benefit analysis prepared by the OMB under**
 23 **section 13 of this chapter after June 30, 2013, the private**
 24 **sector employment impact statement, if any, prepared by**
 25 **the OMB under section 13(d) of this chapter before the**
 26 **rule's adoption.**
- 27 (2) A statement of the number of regulated persons, classified by
 28 industry sector, subject to the rule.
- 29 (3) A comparison of:
- 30 (A) the cost benefit analysis for the rule prepared under
 31 section 13 of this chapter before the rule's implementation,
 32 including the information specified in subdivision (1); and
 33 (B) the actual costs and benefits of the rule during the first
 34 three (3) years of the rule's implementation, including the
 35 following:
- 36 (i) Any actual primary and direct benefits of the rule,
 37 including the rule's impact on consumer protection, worker
 38 safety, the environment, and business competitiveness.
- 39 (ii) Any actual secondary or indirect benefits of the rule and
 40 an explanation of how the conduct regulated by the rule is
 41 linked to the primary and secondary benefits.
- 42 (iii) Any actual cost savings to regulated persons (including

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1 individuals and businesses) as a result of the rule, including
 2 any savings from a change in an existing requirement or
 3 from the imposition of a new requirement.

4 **(iv) For a rule for which the cost benefit analysis**
 5 **required under section 13 of this chapter is prepared by**
 6 **the OMB after June 30, 2013, the actual economic**
 7 **impact of the rule on private sector employment in**
 8 **Indiana during the three (3) year period described in this**
 9 **section, including the information specified in section**
 10 **13(d)(1) through 13(d)(5) of this chapter. However, if,**
 11 **when preparing the cost benefit analysis under section 13**
 12 **of this chapter, the OMB declined to prepare a private**
 13 **sector employment impact statement for the rule because**
 14 **the OMB determined under section 13(d) of this chapter**
 15 **that the preparation of a private sector employment**
 16 **impact statement was unnecessary or impractical with**
 17 **respect to the rule, a comparison of the information**
 18 **described in subdivision (1)(E) with the information**
 19 **described in this item that would otherwise be required**
 20 **under this subdivision is not required, but the OMB must**
 21 **include in the cost benefit analysis required under this**
 22 **section the information described in this item with**
 23 **respect to the three (3) year period described in this**
 24 **section.**

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

28 (A) the restrictions or requirements imposed under the rule;
 29 and

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

31 (5) Any other information that the governor or the committee:

32 (A) requires with respect to a cost benefit analysis under this
 33 section; and

34 (B) requests in writing.

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

40 (1) This subsection does not empower the OMB or an agency to
 41 require an interested party or a regulated person to provide any
 42 materials, documents, or other information. If an interested party

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1 or a regulated person voluntarily provides materials, documents,
2 or other information to the OMB or an agency in connection with
3 a cost benefit analysis under this section, the OMB or the agency,
4 as applicable, shall ensure the adequate protection of any:

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

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

8 If an agency has adopted rules to implement IC 5-14-3-4,
9 interested parties and regulated persons must submit the
10 information in accordance with the confidentiality rules adopted
11 by the agency to ensure proper processing of confidentiality
12 claims. The OMB and any agency involved in administering the
13 rule shall exercise all necessary caution to avoid disclosure of any
14 confidential information supplied to the OMB or the agency by an
15 interested party or a regulated person.

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

22 (g) If the OMB or an agency is unable to obtain verified data for the
23 cost benefit analysis described in subsection (e), the OMB shall state
24 in the cost benefit analysis which data were unavailable for purposes
25 of the cost benefit analysis.

26 (h) The governor or the committee, or both, may prescribe:

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

28 (2) the process, deadlines, and other requirements for submitting
29 a cost benefit analysis;

30 required under this section.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1024, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

MAHAN, Chair

Committee Vote: yeas 13, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1024 be amended to read as follows:

Page 4, line 42, delete ", if any,".

Page 6, delete lines 4 through 23, begin a new line triple block indented and insert:

"(iv) For a rule for which the cost benefit analysis required under section 13 of this chapter is prepared by the OMB after June 30, 2013, the actual economic impact of the rule on private sector employment in Indiana during the three (3) year period described in this section, including the information specified in section 13(d)(1) through 13(d)(5) of this chapter. However, if, when preparing the cost benefit analysis under section 13 of this chapter, the OMB declined to prepare a private sector employment impact statement for the rule because the OMB determined under section 13(d) of this chapter that the preparation of a private sector employment impact statement was unnecessary or impractical with respect to the rule, a comparison of the information described in subdivision (1)(E) with the information described in this item that would otherwise be required under this subdivision is not required, but the OMB must include in the cost benefit analysis required under this section the information described in this item with respect to the three (3) year period described in this section."

(Reference is to HB 1024 as printed January 15, 2013.)

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