

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 ENROLLED ACT No. 1583

---

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

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

SECTION 1. IC 2-5-18-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The committee consists of the following eight (8) members of the general assembly:

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

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

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

**(1) In 2013:**

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

**(B) before July 1, 2013.**

**(2) In each even-numbered year, beginning in 2014:**

**(A) after the election of the general assembly; and**

**(B) before December 1. of each even-numbered year. The**

C  
O  
P  
Y



appointments remain

**Subject to subsection (c), an appointment made under this subdivision remains in effect until the election of the next general assembly and a subsequent appointment under this subdivision.**

(c) Any vacancy occurring on the committee must be filled by the appointing authority for the unexpired term.

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 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.**

~~(c)~~ **(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.

SECTION 3. IC 2-5-18-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) The committee shall receive and may, at its discretion, review a complaint filed by a person regarding a rule or practice of an agency.

(b) **Subject to IC 4-22-2-46**, the committee may, **on its own initiative**, review an agency rule **or proposed rule**, an agency practice, or a failure of an agency to adopt a rule.

(c) The committee may recommend that:

**(1) a rule or proposed rule be modified, repealed, or adopted, as applicable; or**



C  
O  
P  
Y

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

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

SECTION 4. IC 4-22-2-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.2. As used in this chapter, "administrative rules oversight committee" refers to the administrative rules oversight committee established by IC 2-5-18-4.**

SECTION 5. IC 4-22-2-20, AS AMENDED BY P.L.123-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 20. (a) Whenever an agency submits a rule to the publisher, the attorney general, the administrative rules oversight committee established by IC 2-5-18-4, or the governor under this chapter, the agency shall submit the rule in the form of a written document that:**

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

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

**(c) Except as otherwise permitted under section 21 of this chapter, after June 30, 2013, all documents submitted by the office of management and budget or an agency proposing or adopting a rule to the members of the administrative rules oversight committee must be submitted in an electronic format under IC 5-14-6.**

SECTION 6. 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 **direct** 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:

C  
O  
P  
Y



- (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)~~ (e) and not later than fifty (50) days before the public hearing **for a proposed rule** required by section 26 of this chapter, an agency shall submit ~~a~~ **the** 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 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.

(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

C  
o  
p  
y



document. The office of management and budget shall make the fiscal impact statement available to interested parties upon request **and to the agency proposing the rule.** 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, 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.

**(h) This subsection applies to any proposed rule submitted under this section or section 40 of this chapter to the office of management and budget after June 30, 2013. An agency shall**

C  
o  
p  
y



provide the administrative rules oversight committee with any analysis, data, and description of assumptions submitted to the office of management and budget under this section or section 40 of this chapter at the same time the agency submits the information to the office of management and budget. The office of management and budget shall provide the administrative rules oversight committee with any fiscal impact statement and related supporting documentation prepared by the office of management and budget under this section or section 40 of this chapter at the same time the office of management and budget provides the fiscal impact statement to the agency proposing the rule. Information submitted under this subsection must identify the rule to which the information is related by document control number assigned by the publisher.

(i) This subsection applies to any analysis completed after June 30, 2013, to comply with a statute described in this subsection. An agency shall provide the administrative rules oversight committee with any economic impact or fiscal impact statement, including any supporting data, studies, or analysis, prepared for a rule proposed by the agency or subject to re adoption by the agency to comply with:

- (1) a requirement in section 19.5 of this chapter to minimize the expenses to regulated entities that are required to comply with the rule;
  - (2) a requirement in section 24 of this chapter to publish a justification of any requirement or cost that is imposed on a regulated entity under the rule;
  - (3) a requirement in IC 4-22-2.1-5 to prepare a statement that describes the annual economic impact of a rule on all small businesses after the rule is fully implemented;
  - (4) a requirement in IC 4-22-2.5-3.1 to conduct a review to consider whether there are any alternative methods of achieving the purpose of the rule that are less costly or less intrusive, or that would otherwise minimize the economic impact of the proposed rule on small businesses;
  - (5) a requirement in IC 13-14-9-3 or IC 13-14-9-4 to publish information concerning the fiscal impact of a rule or alternatives to a rule subject to these provisions; or
  - (6) a requirement under any other law to conduct an analysis of the cost, economic impact, or fiscal impact of a rule;
- regardless of whether the total estimated economic impact of the proposed rule is more than five hundred thousand dollars



C  
O  
P  
Y

**(\$500,000), as soon as practicable after the information is prepared. Information submitted under this subsection must identify the rule to which the information is related by document control number assigned by the publisher.**

SECTION 7. IC 4-22-2-40, AS AMENDED BY P.L.123-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 40. (a) At any time before a rule is accepted for filing by the publisher under section 35, 37.1, or 38 of this chapter, the agency that adopted the rule may recall it. A rule may be recalled regardless of whether: it

- (1) **the rule** has been disapproved by the attorney general under section 32 of this chapter;
- (2) **the administrative rules oversight committee has recommended under section 46 of this chapter that the governor disapprove the rule;** or
- (3) **the rule has been** disapproved by the governor under section 34 of this chapter.

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

(c) After an agency recalls a rule, the agency may reconsider its adoption action and adopt an identical rule or a revised rule. However, if sections 24 through 36 of this chapter apply to the recalled rule, the readopted rule must comply with the requirements under section 29 of this chapter.

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

(e) If a rule is:

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

the agency shall resubmit the readopted version of the recalled rule to the attorney general and the governor for approval. The attorney general and the governor have the full statutory period to approve or disapprove the readopted rule. **If the recalled rule was submitted to the office of management and budget under section 28 of this chapter, the agency shall resubmit the readopted version of a recalled rule to the office of management and budget with sufficient information for the office of management and budget to evaluate whether its initial fiscal impact statement under section 28**

C  
O  
P  
Y



of this chapter needs to be revised. The office of management and budget shall revise a fiscal impact statement under section 28 of this chapter if the fiscal impact of the readopted rule is substantially different from the recalled rule. The agency also shall comply with any other applicable approval requirement provided by statute.

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

SECTION 8. 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 rule adopted under this chapter (including a rule subject to IC 13-14-9):

(1) 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

(2) has a fiscal that the agency proposing the rule or the office of management and budget determines has a total estimated economic impact of more than 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 9. IC 7.1-3-17.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The commission may adopt rules under IC 4-22-2, including emergency rules adopted in the manner provided under IC 4-22-2-37.1, concerning the following for a horse track permit or a satellite facility permit:

(1) Issuance.



C  
O  
P  
Y

- (2) Scope.
- (3) Permit fee.
- (4) Expiration.
- (5) Revocation and suspension.

**SECTION 10. An emergency is declared for this act.**

C  
o  
p  
y



---

Speaker of the House of Representatives

---

President of the Senate

---

President Pro Tempore

---

Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

C  
o  
p  
y

