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# HOUSE BILL No. 1024

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-3-22.

**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.

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January 7, 2013, read first time and referred to Committee on Government and Regulatory Reform.

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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.

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# 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**



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, **if any**, prepared under

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1 section 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 was prepared**  
 6 **by the OMB after June 30, 2013, or for which a cost**  
 7 **benefit analysis was not prepared because of a**  
 8 **determination that was made by the OMB under section**  
 9 **13(g) of this chapter after June 30, 2013, the actual**  
 10 **economic impact of the rule on private sector**  
 11 **employment in Indiana during the three (3) year period**  
 12 **described in this section, including the information**  
 13 **specified in section 13(d)(1) through 13(d)(5) of this**  
 14 **chapter, regardless of whether the OMB declined to**  
 15 **prepare a private sector employment impact statement**  
 16 **with respect to the rule if a cost benefit analysis was**  
 17 **prepared for the rule.**

18 **If a cost benefit analysis was not prepared by the OMB under**  
 19 **section 13 of this chapter before the rule's adoption because**  
 20 **of a determination by the OMB before the rule's adoption that**  
 21 **the rule met the requirements of section 13(g) of this chapter,**  
 22 **the OMB must only provide the information specified in**  
 23 **clause (B).**

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

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

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

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

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

33 (B) requests in writing.

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

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

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

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

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

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

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

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

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

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

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

29 required under this section.

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