
HOUSE BILL No. 1583

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-18; IC 4-22-2.

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; to more closely align to the actual schedule of appointments made before the election of the one hundred eighteenth general assembly. Permits committee members to participate in committee meetings from remote locations if at least five committee members are physically present at the place where the meeting is held. For a rule proposed by an agency after July 15, 2013, requires the agency to submit the rule to the committee for review if the agency determines the rule will have a total estimated economic impact greater than \$5,000,000 on all regulated persons. Requires the agency to submit the rule to the committee not later than the date the agency submits the rule to the attorney general for review. Permits the committee to recommend that the governor approve or disapprove the rule.

Effective: Upon passage; July 1, 2013.

Harman, Mayfield

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

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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. 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**



- 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) **A committee chair shall**
 14 **be appointed from the committee members:**
 15 **(1) In 2013:**
 16 **(A) after the adjournment sine die of the first regular**
 17 **session of the one hundred eighteenth general assembly;**
 18 **and**
 19 **(B) before July 15, 2013;**
 20 **the speaker of the house of representatives shall appoint a**
 21 **member of the committee to be chair of the committee during**
 22 **the second regular session of the one hundred eighteenth**
 23 **general assembly.**
 24 **(2) In each even-numbered year, beginning in 2014:**
 25 **(A) after the election of the general assembly and the**
 26 **appointment of members to the committee under section**
 27 **5(b)(2) of this chapter; and**
 28 **(B) before December 1;**
 29 **the speaker of the house president pro tempore of**
 30 **representatives the senate shall appoint a member of the**
 31 **committee to be the chair of the committee during the first regular**
 32 **session of each the general assembly that was elected in**
 33 **November of that calendar year. The member appointed to be**
 34 **chair by the speaker president pro tempore serves as chair until**
 35 **the beginning of the second first regular session of that general**
 36 **assembly ~~(b)~~ is adjourned sine die and a chair is appointed**
 37 **under subdivision (3) for the second regular session of that**
 38 **general assembly.**
 39 **(3) In each odd-numbered year, beginning in 2015:**
 40 **(A) after the adjournment sine die of the first regular**
 41 **session of the general assembly elected in November of the**
 42 **immediately preceding calendar year; and**

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1 **(B) before December 1;**
 2 the **president pro tempore speaker** of the **senate house of**
 3 **representatives** shall appoint a member of the committee to be
 4 chair of the committee during the second regular session of ~~each~~
 5 **the general assembly that was elected in November of the**
 6 **immediately preceding calendar year.** The member appointed
 7 to be chair by the **president pro tempore speaker** serves as chair
 8 until ~~the election~~ of the next general assembly **is elected and an**
 9 **appointment is made under subdivision (2) for the next elected**
 10 **general assembly.**

11 ~~(c)~~ **(b)** The committee shall meet to organize on the call of the chair
 12 not later than:

13 **(1) July 15, 2013; and**

14 **(2) December 15 of each year thereafter.**

15 The committee shall meet at the call of the chair.

16 **(c) A member of the committee may participate in a committee**
 17 **meeting without being physically present at the place where the**
 18 **meeting is conducted if the meeting is conducted in accordance**
 19 **with section 6.5 of this chapter.**

20 SECTION 3. IC 2-5-18-6.5 IS ADDED TO THE INDIANA CODE
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2013]: **Sec. 6.5. (a) This section applies to a committee meeting**
 23 **at which at least five (5) committee members are physically present**
 24 **at the place where the meeting is conducted.**

25 **(b) A committee member who is not physically present at the**
 26 **place where a committee meeting is conducted may participate in**
 27 **the meeting by using a means of communication that permits:**

28 **(1) the member;**

29 **(2) all other committee members participating in the meeting;**
 30 **and**

31 **(3) all members of the public physically present at the place**
 32 **where the meeting is conducted;**

33 **to communicate simultaneously with each other during the**
 34 **meeting.**

35 **(c) A committee member who participates in a meeting under**
 36 **subsection (b):**

37 **(1) is considered to be present at the meeting;**

38 **(2) shall be counted for purposes of establishing a quorum;**
 39 **and**

40 **(3) may vote at the meeting.**

41 **(d) The memoranda of the meeting must state the name of each**
 42 **member who:**

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1 (1) was physically present at the place where the meeting was
2 conducted;

3 (2) participated in the meeting by using a means of
4 communication described in subsection (b); or

5 (3) was absent.

6 SECTION 4. IC 2-5-18-8 IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) The committee shall receive
8 and may, at its discretion, review a complaint filed by a person
9 regarding a rule or practice of an agency.

10 (b) **Subject to subsection (e)**, the committee may, **on its own**
11 **initiative**, review an agency rule **or proposed rule**, an agency practice,
12 or a failure of an agency to adopt a rule.

13 (c) The committee may recommend that:

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

16 (2) **in the case of a proposed rule described in subsection (e)**
17 **and submitted to the committee under IC 4-22-2-31.5, the**
18 **proposed rule be approved or disapproved by the governor.**

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

23 (e) **This subsection applies to the following:**

24 (1) **A proposed rule for which the notice required by**
25 **IC 4-22-2-23 or by IC 13-14-9-3, as applicable, is published in**
26 **the Indiana Register by:**

27 (A) **an agency (other than an agency listed in**
28 **IC 4-21.5-2-4); or**

29 (B) **the department of environmental management;**
30 **as applicable, after July 15, 2013.**

31 (2) **A proposed rule for which the notice required under**
32 **IC 13-14-9-4 is published in the Indiana Register by the**
33 **department of environmental management after July 15,**
34 **2013, if notice under IC 13-14-9-3 is not published in the**
35 **Indiana Register, as allowed by IC 13-14-9-7.**

36 **This subsection does not apply to an emergency rule. The**
37 **committee shall review under IC 4-22-2-32.5 a proposed rule that**
38 **is submitted to the committee under IC 4-22-2-31.5.**

39 SECTION 5. IC 4-22-2-20, AS AMENDED BY P.L.123-2006,
40 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2013]: Sec. 20. (a) Whenever an agency submits a rule to the
42 publisher, the attorney general, **the administrative rules oversight**

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1 **committee established by IC 2-5-18-4**, or the governor under this
 2 chapter, the agency shall submit the rule in the form of a written
 3 document that:

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

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

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

15 SECTION 6. IC 4-22-2-21, AS AMENDED BY P.L.123-2006,
 16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2013]: Sec. 21. (a) **As used in this section, "committee"**
 18 **refers to the administrative rules oversight committee established**
 19 **by IC 2-5-18-4.**

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

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

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

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

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

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

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1 in the rule.

2 (4) Any matter that has been previously filed with the:

3 (A) secretary of state before July 1, 2006; or

4 (B) publisher after June 30, 2006.

5 (5) Any matter referred to in subsection ~~(e)~~ (d) as a matter that is
6 directly or indirectly referred to in a primary matter.

7 ~~(e)~~ (f) **Except as provided in subsection (g)**, an agency may
8 comply with subsection ~~(d)~~ (e) by submitting a paper or an electronic
9 copy of the full text of the matter incorporated by reference.

10 (g) **The full text of any matter submitted to the committee under**
11 **subsection (e) must be submitted to the legislative services agency**
12 **for the committee, and not to individual members of the committee.**
13 **Notwithstanding subsection (f), if the matter being submitted is**
14 **available to the agency in an electronic format, the agency must**
15 **submit the matter to the committee in an electronic format.**

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

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

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

24 ~~(2)~~ (3) "Total estimated economic impact" means the annual
25 economic impact of a rule on all regulated persons after the rule
26 is fully implemented under subsection (g).

27 (b) The ombudsman:

28 (1) shall review a proposed rule that:

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

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

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

36 After conducting a review under subdivision (1) or (2), the ombudsman
37 may suggest alternatives to reduce any regulatory burden that the
38 proposed rule imposes on small businesses or other businesses. The
39 agency that intends to adopt the proposed rule shall respond in writing
40 to the ombudsman concerning the ombudsman's comments or
41 suggested alternatives before adopting the proposed rule under section
42 29 of this chapter.



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1 (c) Subject to subsection (f) and not later than fifty (50) days before
 2 the public hearing required by section 26 of this chapter, an agency
 3 shall submit a proposed rule to:

4 (1) the office of management and budget for a review under
 5 subsection (d) if the agency proposing the rule determines that the
 6 rule will have a total estimated economic impact greater than five
 7 hundred thousand dollars (\$500,000) on all regulated persons;

8 **and**

9 **(2) in the case of a proposed rule described in IC 2-5-18-8(e),**
 10 **the committee for a review under section 32.5 of this chapter**
 11 **if the agency proposing the rule determines that the rule will**
 12 **have a total estimated economic impact greater than five**
 13 **million dollars (\$5,000,000) on all regulated persons, as**
 14 **required by section 31.5 of this chapter.**

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

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

32 (1) the state; and

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

34 The fiscal impact statement must contain the total estimated economic
 35 impact of the proposed rule and a determination concerning the extent
 36 to which the proposed rule creates an unfunded mandate on a state
 37 agency or political subdivision. The fiscal impact statement is a public
 38 document. The office of management and budget shall make the fiscal
 39 impact statement available to interested parties upon request. The
 40 agency proposing the rule shall consider the fiscal impact statement as
 41 part of the rulemaking process and shall provide the office of
 42 management and budget with the information necessary to prepare the

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

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

7 (1) the department of environmental management shall give
 8 written notice to the office of management and budget of the
 9 proposed date of preliminary adoption of the proposed rule not
 10 less than sixty-six (66) days before that date; and

11 (2) the office of management and budget shall prepare the fiscal
 12 impact statement referred to in subsection (d) not later than
 13 twenty-one (21) days before the proposed date of preliminary
 14 adoption of the proposed rule.

15 (f) In determining whether a proposed rule has a total estimated
 16 economic impact greater than ~~five hundred thousand dollars~~
 17 ~~(\$500,000)~~, **the amounts specified in subsection (c)(1) and (c)(2)**, the
 18 agency proposing the rule shall consider the impact of the rule on any
 19 regulated person that already complies with the standards imposed by
 20 the rule on a voluntary basis.

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

22 (1) the conclusion of any phase-in period during which:

23 (A) the rule is gradually made to apply to certain regulated
 24 persons; or

25 (B) the costs of the rule are gradually implemented; and

26 (2) the rule applies to all regulated persons that will be affected
 27 by the rule.

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

36 SECTION 8. IC 4-22-2-31.5 IS ADDED TO THE INDIANA CODE
 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 38 1, 2013]: **Sec. 31.5. (a) As used in this section, "committee" refers**
 39 **to the administrative rules oversight committee established by**
 40 **IC 2-5-18-4.**

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

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

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- 1 (2) the agency proposing the rule determines under section
2 28(c) of this chapter will have a total estimated economic
3 impact greater than five million dollars (\$5,000,000) on all
4 regulated persons.
- 5 (c) After an agency has complied with section 29 of this chapter,
6 or with IC 13-14-9-9(1) or IC 13-14-9-9(2), as applicable, for a rule,
7 and not later than the date on which the agency submits the rule to
8 the attorney general under section 31 of this chapter, the agency
9 shall submit the rule to the committee for a recommendation made
10 under section 32.5 of this chapter. The agency shall submit the
11 following to the committee:
- 12 (1) The rule in the form and format required by section 20 of
13 this chapter.
- 14 (2) The documents required by section 21 of this chapter.
- 15 (3) Written authorization to proceed issued by the publisher
16 under section 24(g) of this chapter.
- 17 (4) The fiscal impact statement prepared for the rule by the
18 office of management and budget under section 28(d) of this
19 chapter.
- 20 (5) Any other documents specified by the committee.
- 21 The committee may require the agency to submit any supporting
22 documentation that the committee considers necessary for the
23 committee's review under section 32.5 of this chapter. The agency
24 may submit any additional supporting documentation the agency
25 considers necessary.
- 26 SECTION 9. IC 4-22-2-32.5 IS ADDED TO THE INDIANA CODE
27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
28 1, 2013]: Sec. 32.5. (a) As used in this section, "committee" refers
29 to the administrative rules oversight committee established by
30 IC 2-5-18-4.
- 31 (b) The committee shall review each rule submitted to it under
32 section 31.5 of this chapter.
- 33 (c) The committee may recommend that the governor approve
34 or disapprove a rule reviewed by the committee under this section.
- 35 (d) The committee has forty-five (45) days from the date that an
36 agency submits a rule under section 31.5 of this chapter to issue a
37 recommendation on the rule. If the committee makes no
38 recommendation with respect to the rule within the time set forth
39 in this subsection, the agency may submit the rule to the governor
40 for approval under section 33 of this chapter without a
41 recommendation from the committee.
- 42 (e) The committee shall halt its consideration of a rule if either

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1 of the following occurs during the time described in subsection (d):

2 (1) The rule is recalled by the agency under section 40 of this
3 chapter.

4 (2) The attorney general disapproves the rule under section 32
5 of this chapter.

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

12 (1) the rule has been disapproved by the attorney general under
13 section 32 of this chapter;

14 (2) in the case of a rule described in section 31.5 of this
15 chapter, the administrative rules oversight committee has
16 recommended under section 32.5 of this chapter that the
17 governor disapprove the rule; or

18 (3) the rule has been disapproved by the governor under section
19 34 of this chapter.

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

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

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

32 (e) If a rule is:

33 (1) subject to sections 31, 31.5, and 33 of this chapter;

34 (2) recalled under subsection (a); and

35 (3) readopted under subsection (c);

36 the agency shall resubmit the readopted version of the recalled rule to
37 the attorney general, the administrative rules oversight committee
38 established by IC 2-5-18-4, and the governor for approval. The
39 attorney general and the governor have the full statutory period to
40 approve or disapprove the readopted rule. The agency also shall
41 comply with any other applicable approval requirement provided by
42 statute.

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

3 SECTION 11. **An emergency is declared for this act.**

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