

SENATE MOTION

MADAM PRESIDENT:

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

- 1 Page 2, delete lines 12 through 42, begin a new paragraph and
- 2 insert:
- 3 "SECTION 2. IC 2-5-18-6 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The speaker
- 5 of the house of representatives shall appoint a member of the
- 6 committee to be the chair of the committee ~~during the first regular~~
- 7 ~~session of each general assembly. The member appointed to be chair~~
- 8 ~~by the speaker serves as chair until the beginning of the second regular~~
- 9 ~~session of that general assembly. for a term beginning on July 15 in~~
- 10 ~~an odd-numbered year and ending on July 14 in an even-numbered~~
- 11 ~~year.~~
- 12 (b) The president pro tempore of the senate shall appoint a member
- 13 of the committee to be chair of the committee ~~during the second regular~~
- 14 ~~session of each general assembly. The member appointed to be chair~~
- 15 ~~by the president pro tempore serves as chair until the election of the~~
- 16 ~~next general assembly. for a term beginning on July 15 in an~~
- 17 ~~even-numbered year and ending on July 14 in an odd-numbered~~
- 18 ~~year.~~
- 19 (c) A vacancy in the position of chair of the committee resulting
- 20 from an intervening general election or any other reason shall be
- 21 filled for the remainder of the unexpired term by the appointing
- 22 authority for that term of office.
- 23 ~~(e)~~ (d) The committee shall meet to organize on the call of the chair.
- 24 **In calendar year 2013, the organizational meeting must be held not**
- 25 **later than July 15, 2013. After calendar year 2013, the**
- 26 **organizational meeting must be held** not later than December 15 of
- 27 each **even-numbered** year. The committee shall meet at the call of the
- 28 chair."
- 29 Delete page 3.
- 30 Page 4, delete lines 1 through 5.

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

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

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

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

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

- 16 (1) the governor; and
17 (2) the administrative rules oversight committee established under
18 IC 2-5-18.

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

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

32 (c) **Section 13.2 of this chapter applies to a cost benefit analysis**
33 **prepared under this section.** In preparing a cost benefit analysis under
34 this section, the OMB **also** shall consider in its analysis any verified
35 data provided voluntarily by interested parties, regulated persons, and
36 nonprofit corporations whose members may be affected by the
37 proposed rule. A cost benefit analysis prepared under this section is a
38 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 in connection with a
42 cost benefit analysis under this section. If an interested party or a
43 regulated person voluntarily provides materials, documents, or
44 other information to the OMB or an agency in connection with a
45 cost benefit analysis under this section, the OMB or the agency,
46 as applicable, shall ensure the adequate protection of any:

- 1 (A) information that is confidential under IC 5-14-3-4; or
 2 (B) confidential and proprietary business plans and other
 3 confidential information.
- 4 If an agency has adopted rules to implement IC 5-14-3-4,
 5 interested parties and regulated persons must submit the
 6 information in accordance with the confidentiality rules adopted
 7 by the agency to ensure proper processing of confidentiality
 8 claims. The OMB and any agency involved in proposing the rule,
 9 or in administering the rule upon the rule's adoption, shall
 10 exercise all necessary caution to avoid disclosure of any
 11 confidential information supplied to the OMB or the agency by an
 12 interested party or a regulated person.
- 13 (2) The OMB shall make the cost benefit analysis and other
 14 related public documents available to interested parties, regulated
 15 persons, and nonprofit corporations whose members may be
 16 affected by the proposed rule ~~at least thirty (30) days before~~
 17 **presenting not later than the date the OMB presents** the cost
 18 benefit analysis to the governor and the administrative rules
 19 oversight committee under subsection (a).
- 20 ~~(d)~~ If the OMB or an agency is unable to obtain verified data for the
 21 cost benefit analysis described in **this** subsection, ~~(e)~~, the OMB shall
 22 state in the cost benefit analysis which data were unavailable for
 23 purposes of the cost benefit analysis.
- 24 **(d) The cost benefit analysis information provided to the**
 25 **administrative rules oversight committee in an electronic format**
 26 **under IC 5-14-6 under subsection (a) must include:**
- 27 **(1) The document number for the proposed rule assigned by**
 28 **the publisher of the Indiana Register.**
- 29 **(2) A statement of the direct economic impact of the proposed**
 30 **rule.**
- 31 **(3) A detailed description of the estimation methodology and**
 32 **assumptions for the direct economic impact statement.**
- 33 **(4) Any verified data obtained by the OMB under subsection**
 34 **(c), including any in connection with the direct economic**
 35 **impact statement.**
- 36 **(5) Any other materials, documents, data, and other**
 37 **supporting information:**
- 38 **(A) generated by the OMB; or**
 39 **(B) obtained from the agency or from the small business**
 40 **ombudsman designated under IC 5-28-17-5;**
 41 **as part of the cost benefit analysis.**
- 42 **However, if the cost benefit analysis is revised, the OMB may**
 43 **submit only the information related to the revisions. The**
 44 **information described in subdivisions (3) and (4) shall be submitted**
 45 **to the administrative rules oversight committee regardless of**
 46 **whether the agency or the OMB uses the information in developing**

1 **an economic impact assessment or a cost benefit analysis statement**
 2 **and regardless of whether the information is confidential**
 3 **information. Confidential information submitted to the**
 4 **administrative rules oversight committee shall be treated as**
 5 **confidential by the administrative rules oversight committee and**
 6 **all employees, contractors, and members of the general assembly.**

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

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

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

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

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

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

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

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

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

35 (1) **the initial cost benefit analysis required under subsection**
 36 **(a) and the information required under subsection (d)**
 37 **(excluding any later revised cost benefit analysis prepared for**
 38 **a finally adopted rule); or**

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

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

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

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

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

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

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

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

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

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

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

38 (A) the rule is gradually made to apply to certain regulated
 39 persons; or

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

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

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

47 (f) The OMB shall consider the impact of the rule on any

1 regulated person that already complies with the standards imposed
 2 by the rule on a voluntary basis as a factor that reduces the cost of
 3 implementing a rule. The OMB may use actual or forecasted data
 4 and may consider the actual and anticipated effects of inflation and
 5 deflation.

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

9 (h) The cost benefit analysis may include other information
 10 related to the rule's effect on Indiana business or on other
 11 regulated or benefitted persons.

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

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

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

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

24 (2) "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.

43 (c) ~~Subject to subsection (f) and~~ Not later than fifty (50) days before
 44 the public hearing required by section 26 of this chapter, an agency
 45 shall submit a proposed rule to the office of management and budget
 46 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.

IC 4-3-22-13.

(d) Except as provided in subsection (c), 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

1 the rule on any regulated person that already complies with the
2 standards imposed by the rule on a voluntary basis:

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

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

18 (e) Notwithstanding this section (as effective after June 30,
19 2013), this section (as effective before July 1, 2013) applies to a rule
20 for which an agency is required to:

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

26 under this section before July 1, 2013.

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

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

- 35 (1) The extent to which all persons affected by the adopted rule
36 should have understood from the published rule or rules that their
37 interests would be affected.
38 (2) The extent to which the subject matter of the adopted rule or
39 the issues determined in the adopted rule are different from the
40 subject matter or issues that were involved in the published rule
41 or rules.
42 (3) The extent to which the effects of the adopted rule differ from
43 the effects that would have occurred if the published rule or rules
44 had been adopted instead.

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

1 an owner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (2) may disapprove a rule under this section only if the rule:

- 41 (A) has been adopted without statutory authority;
42 (B) has been adopted without complying with this chapter or
43 IC 13-14-9;

44 (C) is not a logical outgrowth of the proposed rule as
45 published under IC 13-14-9-5(a)(2) and of the testimony
46 presented at the board meeting held under IC 13-14-9-5(a)(3);

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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 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.

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

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

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

- 18 (1) An estimate of the number of small businesses, classified by
- 19 industry sector, that will be subject to the proposed rule.
- 20 (2) An estimate of the average annual reporting, record keeping,
- 21 and other administrative costs that small businesses will incur to
- 22 comply with the proposed rule.
- 23 (3) An estimate of the total annual economic impact that
- 24 compliance with the proposed rule will have on all small
- 25 businesses subject to the rule. The agency is not required to
- 26 submit the proposed rule to the office of management and budget
- 27 for a fiscal analysis under IC 4-22-2-28 ~~unless~~ **(as effective**
- 28 **before July 1, 2013) only if the proposed rule is described in**
- 29 **IC 4-22-2-28(e) and** the estimated economic impact of the rule
- 30 is ~~greater~~ **not more** than five hundred thousand dollars
- 31 (\$500,000) on all regulated entities, as set forth in IC 4-22-2-28
- 32 **(as effective before July 1, 2013).**
- 33 (4) A statement justifying any requirement or cost that is:
- 34 (A) imposed on small businesses by the rule; and
- 35 (B) not expressly required by:
- 36 (i) the statute authorizing the agency to adopt the rule; or
- 37 (ii) any other state or federal law.

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

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

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

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

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

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

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

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

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

- 44 (1) **submit the proposed version of the rule to the office of**
- 45 **management and budget; or**
- 46 (2) **give written notice to the office of management and budget**

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

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

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

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

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

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

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

- 1 IC 4-22-2-26(d).
- 2 (c) At a board meeting held under subsection (a)(1), the board shall
- 3 determine whether the proposed rule will:
- 4 (1) proceed to publication under subsection (a)(2);
- 5 (2) be subject to additional comments under section 3 or 4 of this
- 6 chapter, considering any written finding made by the
- 7 commissioner under section 7 or 8 of this chapter; or
- 8 (3) be reconsidered at a subsequent board meeting in accordance
- 9 with IC 4-22-2-26(d).
- 10 SECTION 14. IC 13-14-9-6, AS AMENDED BY P.L.123-2006,
- 11 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 JULY 1, 2013]: Sec. 6. In addition to the requirements of section 8 of
- 13 this chapter, the department shall include the following in the written
- 14 materials to be considered at the board meetings held under section
- 15 5(a)(1) and 5(a)(3) of this chapter:
- 16 (1) The full text of the proposed rule, as most recently prepared
- 17 by the department.
- 18 (2) The written responses of the department to all comments
- 19 received:
- 20 (A) during the immediately preceding comment period for a
- 21 board meeting held under section 5(a)(1) of this chapter;
- 22 (B) during the immediately preceding board meeting under
- 23 section 5(a)(1) of this chapter for a board meeting held under
- 24 section 5(a)(3) of this chapter if a third public comment period
- 25 is not required under section 4.5 of this chapter; or
- 26 (C) during:
- 27 (i) a third public comment period that address the portion of
- 28 the preliminarily adopted rule that is substantively different
- 29 from the language contained in the proposed rule published
- 30 in a second notice under section 4 of this chapter; and
- 31 (ii) the immediately preceding board meeting held under
- 32 section 5(a)(1) of this chapter;
- 33 for a board meeting held under section 5(a)(3) of this chapter
- 34 if a third public comment period is required under section 4.5
- 35 of this chapter.
- 36 (3) The full text of the office of management and budget ~~fiscal~~

- 1 analysis if a fiscal analysis is required ~~under IC 4-22-2-28.~~ **as**
- 2 **described in section 4.2 of this chapter."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1583 as printed March 22, 2013.)

Senator YOUNG R MICHAEL