

Economic Impact Statement

LSA Document #12-190

[IC 4-22-2.1-5](#) Statement Concerning Rules Affecting Small Businesses**I. Estimate of number of small businesses that will be subject to this rule:**

As required by [IC 4-22-2.1-5\(a\)\(1\)](#), the estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule is unknown. This rule sets out administrative procedures for complaints of Indiana's right to work statute ([IC 22-6-6](#)). The affected small business will be those that are the subject of right to work complaints filed by individuals alleging a violation. No government agency tracks the number of small businesses that operate under collective bargaining agreements. Even if this number were available, we cannot predict how many complaints will be filed against small businesses.

II. Estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule:

The rule does not impose reporting or record keeping requirements. Only businesses that are alleged to have committed a right to work violation will be affected by the rule. Those businesses that are the subject of a complaint may choose to submit a response to the complaint, but a response is optional. The rule describes the process for filing documents in an administrative proceeding. Those documents may be filed electronically with no copying or postage costs.

III. Estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule:

The total number of small businesses affected by the rule is likely to be very small. We estimate that fewer than 50 complaints a year will be filed, and most of those will be resolved without a hearing. The costs to each affected business will be none or de minimis (for example, providing electronic or paper copies of documents filed.) Responding to a complaint and investigation may require some staff time, but those costs would be incurred even if the Department of Labor (Department) did not adopt a rule setting out the complaint process. If a complaint results in a hearing, the subject of the complaint may face some costs to attend the hearing, but those costs would also be incurred if the Department's enforcement process was not subject to these rules.

IV. Statement justifying any requirement or cost that is imposed on small businesses by the rule and not expressly required by the statute authorizing the agency to adopt the rule or any other state or federal law:

The rule imposes minimal procedural requirements on those responding to complaints to ensure that the response is timely received for consideration. The response is optional. If a complaint results in a hearing, the subject of the complaint may face some costs to attend the hearing. If the Department did not provide this administrative enforcement process, the only recourse for a violation would be a civil court action. The financial and other costs of a court action would be significantly greater than the costs of the Department's administrative process. Therefore, the benefits of the orderly administrative process set out in this rule exceed its minimal costs.

V. Regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule:

There are no alternative methods that would achieve the purpose of the proposed rule.

One alternative would be for the Department to decline to investigate and enforce right to work complaints. [IC 22-6-6-11](#) allows but does not require the Department to investigate and enforce right to work complaints. However, this would require that victims of violations file a civil action to enforce the right to work statute. Defending that action in court would be more costly and burdensome than responding in the administrative process.

Another alternative would be to conduct investigations and enforcement activities without any procedural rules. This would create uncertainty and confusion, because complainants and the subjects of complaints would not know what was expected of them during the process.

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