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FISCAL IMPACT STATEMENT

LS 6668

BILL NUMBER: SB 298

NOTE PREPARED: Mar 28, 2005

BILL AMENDED: Mar 21, 2005

SUBJECT: Administrative Rules; Small Business Regulatory Coordinator.

FIRST AUTHOR: Sen. Young R Michael

FIRST SPONSOR: Rep. Hinkle

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) *Administrative Rules Requiring Fiscal Review:* This bill makes the following changes to the administrative rulemaking statute requiring an agency to submit a rule with an estimated economic impact greater than \$500,000 to the Legislative Services Agency (LSA) for a fiscal impact statement:

- (1) Requires the agency to consider the rule's annual economic impact after the rule is fully implemented.
- (2) Specifies that the \$500,000 threshold applies to the impact on all regulated persons.
- (3) Requires the agency to submit to LSA a rule meeting the threshold for a fiscal impact statement not later than 50 days before the public hearing on the rule.
- (4) Requires the agency to consider the rule's impact on an entity that already voluntarily complies with the rule.

The bill also makes conforming changes to the statute requiring the Education Roundtable to determine the fiscal impact of certain recommendations it makes.

Small Business Regulatory Coordinator: This bill requires a state agency to assign a small business regulatory coordinator for each administrative rule proposed or adopted by the agency. The bill requires the agency to list the coordinator's contact information in certain published notices and rules. It also requires the coordinator to serve as a liaison between the agency and small businesses subject to the rule.

In the case of a rule adopted by the Department of Environmental Management (IDEM) or its boards, the bill requires the coordinator for the rule to work with IDEM's ombudsmen and Office of Voluntary Compliance

to coordinate services provided to affected small businesses. The bill requires an agency's director to submit an annual report to the Legislative Council and the Indiana Economic Development Corporation concerning the activities of the agency's coordinators during the state fiscal year.

The bill also provides that a small business that gives voluntary notice to an agency of a violation of a rule is immune from civil or criminal liability resulting from an agency action relating to the violation if the small business: (1) provides the notice within 45 days after discovering the violation; (2) corrects the violation within the time agreed to by the agency and the small business; and (3) cooperates with any investigation by the agency. The bill provides that immunity is not available if: (1) the violation resulted in serious harm or endangered the public; (2) the small business received a competitive advantage; or (3) the small business has a pattern of rule violations.

This bill also provides that certain information provided by a small business relating to a rule violation is confidential. It provides that voluntary notice of a rule violation by a small business is not admissible as evidence, other than in an agency proceeding, to prove liability. This bill also prohibits the Air Pollution Control Board and Water Pollution Control Board from adopting a rule or standard that is more stringent than a corresponding federal provision established under federal law.

(The introduced version of this bill was prepared by the Administrative Rules Oversight Committee.)

Effective Date: July 1, 2005.

Explanation of State Expenditures: *Administrative Rules Requiring Fiscal Review:* This bill places additional requirements on executive branch agencies and the Legislative Services Agency on the conduct and reporting of fiscal analyses of proposed administrative rules and Education Roundtable recommendations. Although potentially requiring additional analysis of the impact of proposed rules and recommendations, the requirements of the bill should be able to be met with existing staff and resources.

(Revised) *Small Business Regulatory Coordinator:* The bill is expected to increase administrative costs for agencies with rulemaking authority to provide small business regulatory coordinators and to compile the required reports. The funds and resources required could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the cost of providing small business regulatory coordinators and administration of rules process under the bill will depend on the administrative actions of the agency with rulemaking authority.

Background: The bill would require one small business regulatory coordinator with knowledge of, or experience with, the subject matter of the rule for each proposed or adopted rule. The bill would allow a staff person to be the coordinator for more than one rule, as long as the person has sufficient knowledge or experience for each rule assigned. Additionally, the agency director must prepare a report by November 1 each year that summarizes complaints, comments, and questions received; the resolution of any complaints or questions; the total number of staff serving as coordinators; the agency's cost of compliance; and a project budget to comply with the requirements of this bill during the next state fiscal year.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: All.

Local Agencies Affected:

Information Sources:

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