



January 28, 2005

SENATE BILL No. 298

DIGEST OF SB 298 (Updated January 26, 2005 3:38 pm - DI 87)

Citations Affected: IC 4-22; IC 13-14; IC 20-1; noncode.

Synopsis: Administrative rules requiring fiscal review. 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. Makes conforming changes to the statute requiring the education roundtable to determine the fiscal impact of certain recommendations it makes. (The introduced version of this bill was prepared by the administrative rules oversight committee.)

Effective: July 1, 2005.

**Young R Michael, Kenley, Young R,
Hume**

January 6, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.
January 27, 2005, amended, reported favorably — Do Pass.

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SB 298—LS 6668/DI 101+



January 28, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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SENATE BILL No. 298



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 4-22-2-28 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. **(a) As used in this**
3 **section, "total estimated economic impact" means the annual**
4 **economic impact of a rule on all regulated persons after the rule is**
5 **fully implemented under subsection (g).**

6 ~~(a)~~ **(b)** The Indiana economic development council may review and
7 comment on any proposed rule and may suggest alternatives to reduce
8 any regulatory burden that the proposed rule imposes on businesses.
9 The agency that intends to adopt the proposed rule shall respond in
10 writing to the Indiana economic development council concerning the
11 council's comments or suggested alternatives before adopting the
12 proposed rule under section 29 of this chapter.

13 ~~(b)~~ **(c)** ~~The~~ **Subject to subsection (f) and not later than fifty (50)**
14 **days before the public hearing required by section 26 of this**
15 **chapter, an agency shall also submit a proposed rule with an to the**
16 **legislative services agency for a review under subsection (d) if the**
17 **agency proposing the rule determines that the rule will have a total**

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1 estimated economic impact greater than five hundred thousand dollars
 2 (\$500,000) on ~~the all~~ regulated ~~entities~~ **persons**. to the legislative
 3 services agency after the preliminary adoption of the rule. **In**
 4 **determining the total estimated economic impact under this**
 5 **subsection, the agency shall consider any applicable information**
 6 **submitted by the regulated persons affected by the rule. To assist**
 7 **the legislative services agency in preparing the fiscal impact**
 8 **statement required by subsection (d), the agency shall submit,**
 9 **along with the proposed rule, the data used and assumptions made**
 10 **by the agency in determining the total estimated economic impact**
 11 **of the rule.**

12 ~~(d)~~ **(e)** Except as provided in subsection ~~(c)~~, **(e)**, before the adoption of
 13 the rule ~~the legislative services agency shall prepare; and~~ not more than
 14 forty-five (45) days after receiving a proposed rule **under subsection**
 15 **(c), the legislative services agency shall prepare, using the data and**
 16 **assumptions provided by the agency proposing the rule, along with**
 17 **any other data or information available to the legislative services**
 18 **agency, a fiscal analysis impact statement** concerning the effect that
 19 compliance with the proposed rule will have on: ~~the:~~

- 20 (1) ~~the~~ state; and
 21 (2) ~~all entities~~ **persons** regulated by the proposed rule.
- 22 The fiscal ~~analysis impact statement~~ must contain ~~an estimate~~ of the
 23 **total estimated** economic impact of the proposed rule and a
 24 determination concerning the extent to which the proposed rule creates
 25 an unfunded mandate on a state agency or political subdivision. The
 26 fiscal ~~analysis impact statement~~ is a public document. The legislative
 27 services agency shall make the fiscal ~~analysis impact statement~~
 28 available to interested parties upon request. The agency proposing the
 29 rule shall consider the fiscal ~~analysis impact statement~~ as part of the
 30 rulemaking process and shall provide the legislative services agency
 31 with the information necessary to prepare the fiscal ~~analysis impact~~
 32 **statement**. The legislative services agency may also receive and
 33 consider applicable information from the regulated ~~entities persons~~
 34 affected by the rule in preparation of the fiscal ~~analysis impact~~
 35 **statement**.

- 36 ~~(c)~~ **(e)** With respect to a proposed rule subject to IC 13-14-9:
 37 (1) the department of environmental management shall give
 38 written notice to the legislative services agency of the proposed
 39 date of preliminary adoption of the proposed rule not less than
 40 sixty-six (66) days before that date; and
 41 (2) the legislative services agency shall prepare the fiscal ~~analysis~~
 42 **impact statement** referred to in subsection ~~(b)~~ **(d)** not later than

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1 twenty-one (21) days before the proposed date of preliminary
2 adoption of the proposed rule.

3 **(f) In determining whether a proposed rule has a total estimated**
4 **economic impact greater than five hundred thousand dollars**
5 **(\$500,000), the agency proposing the rule shall consider the impact**
6 **of the rule on any regulated person that already complies with the**
7 **standards imposed by the rule on a voluntary basis.**

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

- 10 **(1) the conclusion of any phase-in period during which:**
 - 11 **(A) the rule is gradually made to apply to certain regulated**
 - 12 **persons; or**
 - 13 **(B) the costs of the rule are gradually implemented; and**
- 14 **(2) the rule applies to all regulated persons that will be**
- 15 **affected by the rule.**

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

25 SECTION 2. IC 13-14-9-4.2 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.2. Not less than
27 fourteen (14) days before the date of preliminary adoption of a
28 proposed rule by a board, the department shall make available to the
29 board the fiscal ~~analysis~~ **impact statement** prepared by the legislative
30 services agency with respect to the proposed rule under
31 ~~IC 4-22-2-28(e).~~ **IC 4-22-2-28(e).**

32 SECTION 3. IC 20-1-20.5-8 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. **(a) As used in this**
34 **section, "total estimated fiscal impact" means the annual fiscal**
35 **impact of a recommendation on all affected entities after the**
36 **recommendation is fully implemented under subsection (f).**

37 ~~(a)~~ **(b)** The roundtable shall provide recommendations on subjects
38 related to education to the following:

- 39 (1) The governor.
- 40 (2) The superintendent of public instruction.
- 41 (3) The general assembly.
- 42 (4) The board.

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1 ~~(b)~~ **(c) Subject to subsection (e)**, before providing a
 2 recommendation under subsection ~~(a)~~; **(b)**, the roundtable shall prepare
 3 an analysis of the **total estimated** fiscal impact that the
 4 recommendation will have on the state **and all** political subdivisions
 5 and private schools affected by the recommendation. **In preparing an**
 6 **analysis under this subsection, the roundtable shall consider any**
 7 **applicable information submitted by entities affected by the**
 8 **recommendation.** The analysis **under this subsection** must be
 9 submitted with the recommendation under subsection ~~(a)~~; **(b)**.

10 ~~(c)~~ **(d)** Whenever the roundtable provides a recommendation under
 11 subsection ~~(a)~~ **(b)** and the **total estimated** fiscal impact prepared under
 12 subsection ~~(b)~~ **(c)** indicates that the impact of the recommendation will
 13 be at least five hundred thousand dollars (\$500,000), the roundtable
 14 shall submit a copy of the recommendation and the fiscal ~~impact~~
 15 **analysis** prepared under subsection ~~(b)~~ **(c)** to the legislative services
 16 agency for review. Not more than forty-five (45) days after receiving
 17 a copy of the recommendation and fiscal analysis, the legislative
 18 services agency shall prepare a fiscal ~~analysis~~ **impact statement**
 19 concerning the effect that compliance with the recommendation will
 20 have on:

21 (1) the state; and

22 (2) **all** political subdivisions and private schools affected by the
 23 proposed recommendation.

24 The fiscal ~~analysis~~ **impact statement** must contain ~~an estimate of~~ the
 25 direct **total estimated** fiscal impact of the recommendation and a
 26 determination concerning the extent to which the recommendation
 27 creates an unfunded mandate on the state, a political subdivision, or a
 28 private school affected by the proposed recommendation. The fiscal
 29 ~~analysis~~ **impact statement** is a public document. The legislative
 30 services agency shall make the fiscal ~~analysis~~ **impact statement**
 31 available to interested parties upon request. The roundtable shall
 32 provide the legislative services agency with the information necessary
 33 to prepare the fiscal ~~analysis~~; **impact statement**. The legislative
 34 services agency may also receive and consider applicable information
 35 from the entities affected by the recommendation in preparation of the
 36 fiscal ~~analysis~~; **impact statement**. The legislative services agency shall
 37 provide copies of its fiscal ~~analysis~~ **impact statement** to each of the
 38 persons described in subsection ~~(a)~~; **(b)**.

39 **(e) In determining whether a recommendation under this**
 40 **section has a total estimated fiscal impact of at least five hundred**
 41 **thousand dollars (\$500,000) on the affected entities, the roundtable**
 42 **shall consider the impact of the recommendation on any entity that**

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1 already complies with the standards imposed by the
 2 recommendation on a voluntary basis, if applicable.
 3 (f) For purposes of this section, a recommendation is fully
 4 implemented after:
 5 (1) the conclusion of any phase-in period during which:
 6 (A) the recommendation is gradually made to apply to
 7 certain affected entities; or
 8 (B) the costs of the recommendation are gradually
 9 implemented; and
 10 (2) the recommendation applies to all affected entities that
 11 will be affected by the recommendation.
 12 In determining the total estimated fiscal impact of a
 13 recommendation under this section, the roundtable shall consider
 14 the annual fiscal impact on all affected entities beginning with the
 15 first twelve (12) month period or first school year after the
 16 recommendation is fully implemented, whichever applies. The
 17 roundtable may use actual or forecasted data and may consider the
 18 actual and anticipated effects of inflation and deflation. The
 19 roundtable shall describe any assumptions made and any data used
 20 in determining the total estimated fiscal impact of a
 21 recommendation under this section.
 22 SECTION 4. [EFFECTIVE JULY 1, 2005] (a) IC 4-22-2-28, as
 23 amended by this act, applies to a rule that is published in the
 24 Indiana Register under IC 4-22-2-24 or under IC 13-14-9-4(1) after
 25 June 30, 2005.
 26 (b) IC 20-1-20.5-8, as amended by this act, applies to a
 27 recommendation by the education roundtable that is submitted to
 28 the governor, the state superintendent of public instruction, the
 29 general assembly, or the Indiana state board of education after
 30 June 30, 2005.
 31 (c) This SECTION expires January 1, 2007.

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COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 298, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- Page 1, line 4, delete "entities" and insert "**persons**".
 - Page 2, line 2, strike "entities." and insert "**persons.**".
 - Page 2, line 6, delete "entities" and insert "**persons**".
 - Page 2, line 20, strike "entities" and insert "**persons**".
 - Page 2, line 32, strike "entities" and insert "**persons**".
 - Page 3, line 4, delete "entity" and insert "**person**".
 - Page 3, line 10, delete "entities;" and insert "**persons;**".
 - Page 3, line 12, delete "entities" and insert "**persons**".
 - Page 3, line 16, delete "entities" and insert "**persons**".
- Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 298 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 9, Nays 0.

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