

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.

SENATE ENROLLED ACT No. 298

AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-22-2-28, AS AMENDED BY HEA 1822-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) **As used in this section, "total estimated economic impact" means the annual economic impact of a rule on all regulated persons after the rule is fully implemented under subsection (g).**

(~~a~~) (b) The Indiana economic development corporation established by IC 5-28-3-1:

- (1) shall review a proposed rule that:
 - (A) imposes requirements or costs on small businesses (as defined in IC 4-22-2.1-4); and
 - (B) is referred to the corporation by an agency under IC 4-22-2.1-5(c); and
- (2) may review a proposed rule that imposes requirements or costs on businesses other than small businesses (as defined in IC 4-22-2.1-4).

After conducting a review under subdivision (1) or (2), the corporation may suggest alternatives to reduce any regulatory burden that the proposed rule imposes on small businesses or other businesses. The agency that intends to adopt the proposed rule shall respond in writing to the Indiana economic development corporation concerning the



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corporation's comments or suggested alternatives before adopting the proposed rule under section 29 of this chapter.

~~(b) The~~ **(c) Subject to subsection (f) and not later than fifty (50) days before the public hearing required by section 26 of this chapter, an agency shall submit a proposed rule with an to the legislative services agency 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 the all regulated entities: persons. to the legislative services agency after the preliminary adoption of the rule. 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 legislative services agency 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.**

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

- (1) the state; and
- (2) all entities persons regulated by the proposed rule.

The fiscal analysis impact statement must contain an estimate of 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 analysis impact statement is a public document. The legislative services agency shall make the fiscal analysis impact statement available to interested parties upon request. The agency proposing the rule shall consider the fiscal analysis impact statement as part of the rulemaking process and shall provide the legislative services agency with the information necessary to prepare the fiscal analysis impact statement, including any economic impact statement prepared by the agency under IC 4-22-2.1-5. The legislative services agency may also receive and consider applicable information from the regulated entities

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persons affected by the rule in preparation of the fiscal ~~analysis~~
impact statement.

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

(1) the department of environmental management shall give written notice to the legislative services agency of the proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date; and

(2) the legislative services agency shall prepare the fiscal ~~analysis~~
impact statement referred to in subsection ~~(b)~~ (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 the rule on any regulated person that already complies with the standards imposed by the rule on a voluntary basis.

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

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

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

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

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

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

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

SECTION 3. IC 20-19-4-8, AS ADDED BY HEA 1288-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2005] Sec. 8. (a) **As used in this section, "total estimated fiscal impact" means the annual fiscal impact of a recommendation on all affected entities after the recommendation is fully implemented under subsection (e).**

(a) (b) **Subject to subsection (d),** before providing a recommendation under section 7 of this chapter, the roundtable shall prepare an analysis of the **total estimated** fiscal impact that the recommendation will have on the state, political subdivisions, and **and all** private schools affected by the recommendation. **In preparing an analysis under this subsection, the roundtable shall consider any applicable information submitted by entities affected by the recommendation.** The analysis **prepared under this subsection** must be submitted with the recommendation under section 7 of this chapter.

(b) (c) If the roundtable provides a recommendation under section 7 of this chapter and the **total estimated** fiscal impact analysis prepared under subsection (a) (b) indicates that the impact of the recommendation will be at least five hundred thousand dollars (\$500,000), the roundtable shall submit a copy of the recommendation and the fiscal ~~impact~~ analysis prepared under subsection (a) (b) to the legislative services agency for review. This recommendation must be in an electronic format under IC 5-14-6. Not more than forty-five (45) days after receiving a copy of the recommendation and fiscal impact analysis, the legislative services agency shall prepare a fiscal ~~analysis~~ **impact statement** concerning the effect that compliance with the recommendation will have on:

- (1) the state; **and**
 - (2) **all:**
 - (A) political subdivisions; and
 - (B) nonpublic schools;
- affected by the proposed recommendation.

The fiscal ~~analysis~~ **impact statement** must contain ~~an estimate~~ of the direct **total estimated** fiscal impact of the recommendation and a determination concerning the extent to which the recommendation creates an unfunded mandate on the state, a political subdivision, or a nonpublic school affected by the proposed recommendation. The fiscal ~~analysis~~ **impact statement** is a public document. The legislative services agency shall make the fiscal ~~analysis~~ **impact statement** available to interested parties upon request. The roundtable shall provide the legislative services agency with the information necessary to prepare the fiscal ~~analysis~~ **impact statement**. The legislative services agency may also receive and consider applicable information from the entities affected by the recommendation in preparation of the

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fiscal ~~analysis~~ **impact statement**. The legislative services agency shall provide copies of its fiscal ~~analysis~~ **impact statement** to each of the persons described in section 7 of this chapter.

(d) **In determining whether a recommendation under this section has a total estimated fiscal impact of at least five hundred thousand dollars (\$500,000) on the affected entities, the roundtable shall consider the impact of the recommendation on any entity that already complies with the standards imposed by the recommendation on a voluntary basis, if applicable.**

(e) **For purposes of this section, a recommendation is fully implemented after:**

- (1) **the conclusion of any phase-in period during which:**
 - (A) **the recommendation is gradually made to apply to certain affected entities; or**
 - (B) **the costs of the recommendation are gradually implemented; and**
- (2) **the recommendation applies to all affected entities that will be affected by the recommendation.**

In determining the total estimated fiscal impact of a recommendation under this section, the roundtable shall consider the annual fiscal impact on all affected entities beginning with the first twelve (12) month period or first school year after the recommendation is fully implemented, whichever applies. The roundtable may use actual or forecasted data and may consider the actual and anticipated effects of inflation and deflation. The roundtable shall describe any assumptions made and any data used in determining the total estimated fiscal impact of a recommendation under this section.

SECTION 4. [EFFECTIVE JULY 1, 2005] (a) IC 4-22-2-28, as amended by this act, applies to a rule that is published in the Indiana Register under IC 4-22-2-24 or under IC 13-14-9-4(1) after June 30, 2005.

(b) IC 20-19-4-8, as amended by this act, applies to a recommendation by the education roundtable that is submitted to the governor, the state superintendent of public instruction, the general assembly, or the Indiana state board of education after June 30, 2005.

(c) This SECTION expires January 1, 2007.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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