

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6631

BILL NUMBER: HB 1280

NOTE PREPARED: Feb 27, 2012

BILL AMENDED: Feb 27, 2012

SUBJECT: Regulatory Matters.

FIRST AUTHOR: Rep. Koch

FIRST SPONSOR: Sen. Hershman

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

Continuous Process Improvement: It requires the Office of Management and Budget (OMB) to advise and assist state agencies and instrumentalities with the implementation of continuous process improvement techniques.

Administrative Rules Cost-Benefit Analysis: It requires the OMB to prepare for each administrative rule that: (1) has been adopted; and (2) has taken effect; after December 31, 2011, a cost-benefit analysis with respect to the first three years following the rule's effective date.

The bill requires the OMB to submit the cost benefit analysis to the Administrative Rules Oversight Committee.

It provides that a cost-benefit analysis must include certain information concerning the three-year period covered by the analysis. The bill provides that in preparing a cost-benefit analysis, the OMB shall consider any verified data provided voluntarily by interested parties, regulated persons, and nonprofit corporations whose members may be affected by the rule.

It provides that a cost-benefit analysis is a public document, subject to the following:

- (1) The OMB or a state agency may not require an interested party or a regulated person to provide information in connection with an analysis.
- (2) If an interested party or a regulated person voluntarily provides information, the OMB or a state agency responsible for proposing or administering the rule shall ensure adequate

protection of any confidential or proprietary information provided.

(3) At least 30 days before presenting the cost-benefit analysis to the Governor and the Committee, the OMB shall make the cost-benefit analysis available to interested parties, regulated persons, and nonprofit corporations whose members may be affected by the rule.

The bill specifies that to maintain confidentiality, interested parties and regulated persons must submit the information according to the rulemaking agency's confidentiality rules.

It also requires an agency that amends or modifies a proposed rule to resubmit the proposed rule to the OMB, and it provides certain exceptions to the analysis requirements for a proposed rule.

Initial Notice of Determination: The bill eliminates regular mail and personal service requirements for an initial notice of a determination for certain adjudicative proceedings.

Rulemaking: The bill requires a state agency, to the extent feasible and permitted by law, to afford the public a meaningful opportunity to comment through the Internet on proposed rules, and it requires state agencies to consider providing a comment period that exceeds the minimum required by law. It requires agencies to maintain a rulemaking docket and publish it on the agency's Internet web site.

Hearing Officers and Administrative Law Judges: The bill provides that the State Personnel Department shall adopt classifications and qualifications for administrative law judges and other hearing officers in the executive department of state government and develop appropriate training programs for such administrative law judges and hearing officers.

Video Services Franchise Fees: The bill requires each unit of local government that receives franchise fees paid to a unit from an entity providing video services to submit to the Indiana Utility Regulatory Commission an annual report on the unit's receipt and use of those franchise fees during the calendar year for which the report is submitted.

Pharmacy License Category: This bill consolidates six categories of pharmacy licenses into three categories.

Effective Date: Upon passage; July 1, 2012.

Explanation of State Expenditures: *Continuous Process Improvement:* The bill will have indeterminate fiscal impact on the budget of the Office of Management and Budget. Under current law, among the duties of the Division of Governmental Efficiency and Financial Planning (GEFP) is conducting operational and procedural audits of state government and designing and implementing efficiency projects. The bill requires the GEFP to advise and assist each instrumentality, agency, authority, board, commission, officers of the executive, and body corporate and politic to identify and implement continuous process improvement. [In FY 2012 and FY 2013, the total OMB appropriation is \$980,324 each year.]

Administrative Rules Cost-Benefit Analysis: The bill's requirements will likely increase administrative expenses for the OMB, but any impact will depend upon the number of cost-benefit analyses that will need to be prepared due to the bill's provisions. It is estimated that the bill's requirements can be accomplished within existing resources. [Executive Order 2-89 and Financial Management Circular (FMC) 2010-4 require state agencies to complete fiscal analyses of proposed rules' impact on state and local government. The OMB does not conduct their own fiscal analysis unless an agency's analysis is incomplete.]

(Revised) Notice of a Determination: Under the bill, initial determination notices for licenses issued by various state agencies; grant of property or service, bonds, financial guarantees, tax incentives, variances or exemptions from laws; tax due or other liabilities; and determination of status could be served by electronic methods, other methods approved by the Indiana Rules of Trial Procedure, or by United States mail or personal service (as required under current law). To the extent that state agencies utilize electronic methods for the serving of papers, the bill potentially reduces notification costs for certain types of initial determinations. The cost savings will depend on whether a less expensive alternate method is used.

Hearing Officers and Administrative Law Judges: The bill will have minimal impact on the State Personnel Department to adopt classifications and qualifications for administrative law judges and other hearing officers. The costs to provide training programs for administrative law judges and other hearing officers will depend on how the training is provided. It is expected that internal state resources can be used and that costs will not increase. Additionally, the State Personnel Department will incur minimal administrative costs to prepare a report to the Administrative Rules Oversight Commission by November 1, 2012.

Video Services Franchise Fees: The IURC may have a minimal one-time cost increase to adopt rules to implement the reporting requirement under the bill and ongoing costs to produce an annual report.

Pharmacy License Category: To the extent that the bill will align permits with actual business practices, the Professional Licensing Agency (PLA) may experience some minimal cost savings. Issuing new permits in the new categories is expected to have minimal cost as the PLA already has a policy for permit holders to download and print permits once or pay for printings by the PLA.

Background - Pharmacy License Category: Under current law, there are six types of pharmacy permits. Under the bill, there are to be three categories, with Types I and II corresponding to Categories I and II respectively, and Types III, IV, V, and VI rolling into Category III. Existing permits move to the newly established category, but the expiration date of the permit does not change. Current Type III, IV, and V permit holders would gain the ability to open to the general public without a pharmacist on duty under certain conditions. In addition, the Pharmacy Board may approve a remote or mobile location for Category I, II, or III permits to include telepharmacy, automated dispensing, or delivery of cognitive services.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues: *Video Services Franchise Fees:* The bill requires a local unit that receives a franchise fee to report to the IURC, including the amount of the fees, the account into which the fees were deposited, the purposes for which any fees were received, and any other information the IURC considers appropriate.

State Agencies Affected: State agencies, Administrative Rules Commission, PLA, IURC, OMB.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources: www.in.gov/pla, Ann Kaiser, Office of Management and Budget, 317-234-2079, Dan Hackler, Director, State Personnel Department, 317-234-3830.

Fiscal Analyst: Karen Firestone, 317-234-2106, Chris Baker, 317-232-9851, Jessica Harmon, 317-232-9854.