

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1280 be amended to read as follows:

- 1 Page 2, line 14, delete “The” and insert **"Except as provided in**
2 **subsection (e), the"**.
- 3 Page 2, line 19, after “business.” insert **"The OMB shall submit the**
4 **cost benefit analysis to the administrative rules oversight**
5 **committee in an electronic format under IC 5-14-6."**
- 6 Page 3, line 2, before “The” insert **"If an agency has adopted rules**
7 **to implement IC 5-14-3-4, interested parties and regulated persons**
8 **must submit the information in accordance with the confidentiality**
9 **rules adopted by the agency to ensure proper processing of**
10 **confidentiality claims."**
- 11 Page 3, between lines 13 and 14, begin a new paragraph and insert:
12 **"(d) If the OMB or an agency is unable to obtain verified data**
13 **for the cost benefit analysis described in subsection (c), the OMB**
14 **shall state in the cost benefit analysis which data were unavailable**
15 **for purposes of the cost benefit analysis.**
- 16 **(e) If the OMB finds that a proposed rule is:**
17 **(1) an adoption or incorporation by reference of a federal law,**
18 **regulation, or rule that has no substantive effect on the scope**
19 **or intended application of the federal law or rule; or**
20 **(2) a technical amendment with no substantive effect on an**
21 **existing Indiana rule;**
- 22 **the OMB may not prepare a cost benefit analysis of the rule under**
23 **this section. The agency shall submit the proposed rule to the OMB**
24 **with a statement explaining how the proposed rule meets the**
25 **requirements of this subsection. If the OMB finds that the rule**
26 **meets the requirements of this subsection, the OMB shall provide**
27 **its findings to the governor and to the committee in an electronic**
28 **format under IC 5-14-6. If the agency amends or modifies the**
29 **proposed rule after the OMB finds that a cost benefit may not be**
30 **prepared for the rule, the agency shall resubmit the proposed rule**

1 **to the OMB either for a new determination that the rule meets the**
 2 **requirements of this subsection, or for the OMB to prepare a cost**
 3 **benefit analysis of the rule under this section."**

4 Page 3, between lines 19 and 20, begin a new paragraph and insert:

5 **"(b) This section does not apply to a rule for which the OMB has**
 6 **not performed a cost benefit analysis under section 13(e) of this**
 7 **chapter."**

8 Page 3, line 20, delete "(b)" and insert "(c)".

9 Page 3, line 23, delete "(c)" and insert "(d)".

10 Page 3, line 27, delete "(f)," and insert "(g)".

11 Page 3, line 32, after "date." insert **"The OMB shall submit the**
 12 **cost benefit analysis to the committee in an electronic format under**
 13 **IC 5-14-6."**

14 Page 3, line 33, delete "(d)" and insert "(e)".

15 Page 4, line 15, after "section" insert **"as requested in writing"**.

16 Page 4, line 16, delete "(e)" and insert "(f)".

17 Page 4, line 33, before "The" insert **"If an agency has adopted**
 18 **rules to implement IC 5-14-3-4, interested parties and regulated**
 19 **persons must submit the information in accordance with the**
 20 **confidentiality rules adopted by the agency to ensure proper**
 21 **processing of confidentiality claims."**

22 Page 4, line 42, delete "(c)." and insert "(d)".

23 Page 4, after line 42, begin a new paragraph and insert:

24 **"(g) If the OMB or an agency is unable to obtain verified data**
 25 **for the cost benefit analysis described in subsection (e), the OMB**
 26 **shall describe in the cost benefit analysis which data were**
 27 **unavailable for purposes of the cost benefit analysis."**

28 Page 5, line 1, delete "(f)" and insert "(h)".

29 Page 5, between lines 23 and 24, begin a new paragraph and insert:

30 **"SECTION 6. IC 4-21.5-3-1, AS AMENDED BY P.L.32-2011,**
 31 **SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 32 **UPON PASSAGE]: Sec. 1. (a) This section applies to:**

33 (1) the giving of any notice;

34 (2) the service of any motion, ruling, order, or other filed item; or

35 (3) the filing of any document with the ultimate authority;

36 in an administrative proceeding under this article.

37 (b) Except as provided in subsection (c) or as otherwise provided by
 38 law, a person shall serve papers by:

39 (1) United States mail;

40 (2) personal service;

41 (3) electronic mail; or

42 (4) any other method approved by the Indiana Rules of Trial
 43 Procedure.

44 (c) The following shall be served by United States mail or personal
 45 service:

46 (1) The initial notice of a determination under section ~~4~~, ~~5~~, or 6 of

- 1 this chapter.
- 2 (2) A petition for review of an agency action under section 7 of
3 this chapter.
- 4 (3) A complaint under section 8 of this chapter.
- 5 (d) The agency shall keep a record of the time, date, and
6 circumstances of the service under subsection (b) or (c).
- 7 (e) Service shall be made on a person or on the person's counsel or
8 other authorized representative of record in the proceeding. Service on
9 an artificial person or a person incompetent to receive service shall be
10 made on a person allowed to receive service under the rules governing
11 civil actions in the courts. If an ultimate authority consists of more than
12 one (1) individual, service on that ultimate authority must be made on
13 the chairperson or secretary of the ultimate authority. A document to
14 be filed with that ultimate authority must be filed with the chairperson
15 or secretary of the ultimate authority.
- 16 (f) If the current address of a person is not ascertainable, service
17 shall be mailed to the last known address where the person resides or
18 has a principal place of business. If the identity, address, or existence
19 of a person is not ascertainable, or a law other than a rule allows,
20 service shall be made by a single publication in a newspaper of general
21 circulation in:
- 22 (1) the county in which the person resides, has a principal place
23 of business, or has property that is the subject of the proceeding;
24 or
- 25 (2) Marion County, if the place described in subdivision (1) is not
26 ascertainable or the place described in subdivision (1) is outside
27 Indiana and the person does not have a resident agent or other
28 representative of record in Indiana.
- 29 (g) A notice given by publication must include a statement advising
30 a person how the person may receive written notice of the proceedings.
- 31 (h) The filing of a document with an ultimate authority is complete
32 on the earliest of the following dates that apply to the filing:
- 33 (1) The date on which the document is delivered to the ultimate
34 authority under subsection (b), (c), or (e).
- 35 (2) The date of the postmark on the envelope containing the
36 document, if the document is mailed to the ultimate authority by
37 United States mail.
- 38 (3) The date on which the document is deposited with a private

- 1 carrier, as shown by a receipt issued by the carrier, if the document is
- 2 sent to the ultimate authority by private carrier."
- 3 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1280 as printed February 24, 2012.)

Senator HERSHMAN