

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

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FISCAL IMPACT STATEMENT

LS 6770

BILL NUMBER: HB 1100

NOTE PREPARED: Dec 31, 2021

BILL AMENDED:

SUBJECT: Agency Oversight and Rulemaking Procedures.

FIRST AUTHOR: Rep. Bartels

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill has the following provisions:

- (1) Requires a court to try disputed issues of fact de novo in a judicial review of an agency action.
- (2) Provides that the burden of proving the validity of an agency action is on the agency.
- (3) Requires the court in a judicial review of an agency action to review all issues of law and fact de novo and without deference to any previous interpretation made by the agency.
- (4) Requires an agency to repeal a rule before the agency may adopt a new rule that requires or prohibits an action on behalf of a person.
- (5) Prohibits an executive order issued by the Governor from being effective for more than 180 days unless the Legislative Council approves the extended enforcement of the executive order.
- (6) Requires an agency to submit an emergency rule to the Attorney General for review and approval before the emergency rule may take effect.
- (7) Provides that emergency rules may not be effective for a period that exceeds 180 days.
- (8) Provides that certain emergency rules expire not more than two years after the rule takes effect.
- (9) Requires an agency adopting an administrative rule to submit an economic impact statement and an explanation of any penalty, fine, or other similar negative impact included in the proposed rule to the Publisher of the Indiana Administrative Code.
- (10) Requires the Publisher to provide a copy of the materials concerning a proposed rule or pending readoption to the members of the appropriate standing committee.
- (11) Provides that administrative rules expire on July 1 of the fourth year after the year in which the rule takes effect (instead of January 1 of the seventh year after the year in which the rule takes effect).
- (12) Requires an agency intending to readopt an administrative rule to provide to the Publisher, not later than January 1 of the third year after the year in which the rule most recently took effect: (a) notice of; and (b)

information concerning; the pending readoption.
(13) Makes corresponding changes.

Effective Date: July 1, 2022.

Explanation of State Expenditures: *Executive Branch Agencies* - This bill creates additional oversight and regulations concerning the administrative and emergency rule promulgation process for executive agencies. The provisions of the bill could impact state agency workload.

Legislative Services Agency - The bill also modifies and increases the responsibilities of the Indiana Register and Administrative Code Division of the Legislative Services Agency. The existing staffing and resources may be insufficient for full implementation. The increase in workload is expected to increase agency expenditures by approximately \$75,000 per year beginning in FY 2023.

Attorney General - The bill also requires the Attorney General to review emergency and administrative rules submitted by state agencies. Currently the Attorney General performs this function for administrative rules but not for emergency rules. As a result, this bill is expected to increase Attorney General workload.

For CY 2020, the Indiana Register received 213 proposed rules, 300 emergency rules, and 206 re-adopted rules.

State Budget Agency: The State Budget Agency currently reviews fiscal impact statements for proposed rules submitted by state agencies. The requirement that state agencies create and submit an impact statement for rules that carry a penalty, fine, or other similar negative impact is expected to have no impact on agency workload.

Additional Information - Administrative rules under the bill are valid for up to four year periods, whereas currently these rules are valid for up to seven years. Additionally, the bill specifies emergency rules are valid for no more than 180 days, which is a shorter duration than current law. These changes in the bill would increase state agency workload to resubmit administrative and emergency rules more often than current practice.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Executive branch agencies; Legislative Services Agency; Attorney General; State Budget Agency.

Local Agencies Affected:

Information Sources: Indiana Register; Indiana Utility Regulatory Commission Rulemaking Process Overview.

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