

## **IC 4-3-22**

### **Chapter 22. Office of Management and Budget**

#### **IC 4-3-22-1**

##### **Legislative findings**

Sec. 1. The state will benefit from devoting adequate resources to do the following:

- (1) Gather and coordinate data in a timely manner.
- (2) Perform comprehensive and detailed budgeting analysis.
- (3) Put in place comprehensive and effective budgeting practices.
- (4) Coordinate all functions related to budgeting and controlling spending in state government.
- (5) Perform comprehensive and detailed financial analysis.
- (6) Perform comprehensive financial oversight.
- (7) Ensure that effective financial management policies are implemented throughout state government.
- (8) Perform comprehensive and detailed performance analysis.
- (9) Ascertain whether the burdens imposed by laws and rules are justified by their benefits using a rigorous cost benefit analysis.
- (10) Measure the performance of government activities.

*As added by P.L.246-2005, SEC.38.*

#### **IC 4-3-22-1.5**

##### **"Continuous process improvement"**

Sec. 1.5. As used in this chapter, "continuous process improvement" means a management methodology that combines tools to improve process speed and reduce waste with data driven project analysis to provide products and services with improved quality at lower cost.

*As added by P.L.152-2012, SEC.2.*

#### **IC 4-3-22-2**

##### **"Director"**

Sec. 2. As used in this chapter, "director" means the director of the office of management and budget established by this chapter.

*As added by P.L.246-2005, SEC.38.*

#### **IC 4-3-22-3**

##### **Establishment of office; director**

Sec. 3. (a) To address the needs set forth in section 1 of this chapter, there is established the office of management and budget, which is referred to in this chapter as the "OMB".

(b) The OMB shall have a director who is the chief financial officer of the state. The director shall report directly to the governor.

*As added by P.L.246-2005, SEC.38.*

#### **IC 4-3-22-4**

##### **Responsibilities and authority of budget director**

Sec. 4. The director is responsible and accountable for and has authority over the following:

- (1) All functions performed by the following:
  - (A) The budget agency.
  - (B) The department of state revenue.
  - (C) The department of local government finance.
  - (D) The Indiana finance authority.

The directors of these agencies, departments, and offices shall report to the director and administer their offices and agencies in compliance with the policies and procedures related to fiscal management that are established by the OMB and approved by the governor.

- (2) All budgeting, accounting, and spending functions within the various agencies, departments, and programs of state government.

*As added by P.L.246-2005, SEC.38.*

#### **IC 4-3-22-5**

##### **OMB director as budget director**

Sec. 5. The director may serve as the budget director of the budget agency under IC 4-12-1-3 unless the governor appoints another individual to serve as the budget director. If the director also serves as the budget director, the director is not entitled to receive any salary or other compensation as budget director.

*As added by P.L.246-2005, SEC.38.*

#### **IC 4-3-22-6**

##### **Division of government efficiency and financial planning**

Sec. 6. (a) The division of government efficiency and financial planning is established within the OMB. The director shall appoint, subject to the approval of the governor, a director of the division, who serves at the pleasure of the director of OMB.

(b) The division shall do the following:

- (1) Conduct operational and procedural audits of state government.
- (2) Perform financial planning and design and implement efficiency projects.
- (3) Advise and assist:
  - (A) each instrumentality, agency, authority, board, commission, and officer in the executive department of state government; and
  - (B) each body corporate and politic established as an instrumentality of the state;

to identify and implement continuous process improvement in state government.

- (4) Carry out such other responsibilities as may be designated by the director.

*As added by P.L.246-2005, SEC.38. Amended by P.L.152-2012, SEC.3.*

**IC 4-3-22-7****Duties; fiscal management**

Sec. 7. The OMB shall assist the governor in the articulation, development, and execution of the governor's policies and programs on fiscal management.

*As added by P.L.246-2005, SEC.38.*

**IC 4-3-22-8****Duties; review and development of policies and proposals**

Sec. 8. The OMB shall assist and represent the governor in the development and review of all policy, legislative, and rulemaking proposals affecting capital budgeting, procurement, e-government, and other matters related to fiscal management.

*As added by P.L.246-2005, SEC.38.*

**IC 4-3-22-9****Duties; coordination of administrative policies**

Sec. 9. The OMB shall harmonize agency views on legislation and facilitate the negotiation of policy positions for the governor.

*As added by P.L.246-2005, SEC.38.*

**IC 4-3-22-10****Duties; budget decision making and negotiations**

Sec. 10. The OMB shall provide expertise to the governor for budget decision making and negotiations.

*As added by P.L.246-2005, SEC.38.*

**IC 4-3-22-11****Duties; analysis of budgets; trends**

Sec. 11. The OMB shall analyze trends in and the consequences of aggregate budget policy.

*As added by P.L.246-2005, SEC.38.*

**IC 4-3-22-12****Duties; metrics for measuring performance and efficiency**

Sec. 12. The OMB shall establish metrics for measuring state government performance and efficiency.

*As added by P.L.246-2005, SEC.38.*

**IC 4-3-22-13****Duties; cost benefit analysis for proposed rules; verified data; confidentiality; analysis prohibited for adoptions of federal law and technical amendments**

Sec. 13. (a) Except as provided in subsection (e), the OMB shall perform a cost benefit analysis upon each proposed rule and provide to:

- (1) the governor; and
- (2) the administrative rules oversight committee established under IC 2-5-18;

an assessment of the rule's effect on Indiana business. The OMB

shall submit the cost benefit analysis to the committee in an electronic format under IC 5-14-6.

(b) After June 30, 2005, the cost benefit analysis performed by the OMB under this section with respect to any proposed rule that has an impact of at least five hundred thousand dollars (\$500,000) shall replace and be used for all purposes under IC 4-22-2 in lieu of the fiscal analysis previously performed by the legislative services agency under IC 4-22-2.

(c) In preparing a cost benefit analysis under this section, the OMB shall consider in its analysis any verified data provided voluntarily by interested parties, regulated persons, and nonprofit corporations whose members may be affected by the proposed rule. A cost benefit analysis prepared under this section is a public document, subject to the following:

(1) This subsection does not empower the OMB or an agency to require an interested party or a regulated person to provide any materials, documents, or other information in connection with a cost benefit analysis under this section. If an interested party or a regulated person voluntarily provides materials, documents, or other information to the OMB or an agency in connection with a cost benefit analysis under this section, the OMB or the agency, as applicable, shall ensure the adequate protection of any:

- (A) information that is confidential under IC 5-14-3-4; or
- (B) confidential and proprietary business plans and other confidential information.

If an agency has adopted rules to implement IC 5-14-3-4, interested parties and regulated persons must submit the information in accordance with the confidentiality rules adopted by the agency to ensure proper processing of confidentiality claims. The OMB and any agency involved in proposing the rule, or in administering the rule upon the rule's adoption, shall exercise all necessary caution to avoid disclosure of any confidential information supplied to the OMB or the agency by an interested party or a regulated person.

(2) The OMB shall make the cost benefit analysis and other related public documents available to interested parties, regulated persons, and nonprofit corporations whose members may be affected by the proposed rule at least thirty (30) days before presenting the cost benefit analysis to the governor and the administrative rules oversight committee under subsection (a).

(d) If the OMB or an agency is unable to obtain verified data for the cost benefit analysis described in subsection (c), the OMB shall state in the cost benefit analysis which data were unavailable for purposes of the cost benefit analysis.

(e) If the OMB finds that a proposed rule is:

- (1) an adoption or incorporation by reference of a federal law, regulation, or rule that has no substantive effect on the scope or intended application of the federal law or rule; or

- (2) a technical amendment with no substantive effect on an existing Indiana rule;

the OMB may not prepare a cost benefit analysis of the rule under this section. The agency shall submit the proposed rule to the OMB with a statement explaining how the proposed rule meets the requirements of this subsection. If the OMB finds that the rule meets the requirements of this subsection, the OMB shall provide its findings to the governor and to the committee in an electronic format under IC 5-14-6. If the agency amends or modifies the proposed rule after the OMB finds that a cost benefit analysis may not be prepared for the rule, the agency shall resubmit the proposed rule to the OMB either for a new determination that the rule meets the requirements of this subsection, or for the OMB to prepare a cost benefit analysis of the rule under this section.

*As added by P.L.246-2005, SEC.38. Amended by P.L.131-2012, SEC.1.*

#### **IC 4-3-22-13.1**

##### **Duties; cost benefit analysis for three year period after rule's effective date; contents; verified data; confidentiality**

Sec. 13.1. (a) This section applies to a rule that:

- (1) has been adopted under IC 4-22-2 or IC 13-14-9; and
- (2) has taken effect;

after December 31, 2011.

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

(c) As used in this section, "committee" refers to the administrative rules oversight committee established by IC 2-5-18-4.

(d) For each rule to which this section applies, the OMB shall perform a cost benefit analysis of the rule with respect to the period encompassing the first three (3) years following the rule's effective date. Except as otherwise required by the governor or the committee under subsection (h), the OMB shall submit a cost benefit analysis prepared under this section to:

- (1) the governor; and
- (2) the committee;

not later than six (6) months after the third anniversary of the rule's effective date. The OMB shall submit the cost benefit analysis to the committee in an electronic format under IC 5-14-6.

(e) A cost benefit analysis prepared under this section must include the following with respect to the three (3) year period covered by the analysis:

- (1) The cost benefit analysis for the rule prepared under section 13 of this chapter before the rule's adoption, including the following:

(A) The information required by Financial Management Circular #2010-4.

(B) The estimate of the primary and direct benefits of the rule, including the impact on:

- (i) consumer protection;
- (ii) worker safety;
- (iii) the environment; and
- (iv) business competitiveness;

as determined before the rule's adoption.

(C) The estimate of the secondary or indirect benefits of the rule and the explanation of how the conduct regulated by the rule is linked to the primary and secondary benefits, as determined before the rule's adoption.

(D) The estimate of any cost savings to regulated persons (including individuals and businesses) as a result of the rule, including any savings from:

- (i) a change in an existing requirement; or
- (ii) the imposition of a new requirement;

as determined before the rule's adoption.

(2) A statement of the number of regulated persons, classified by industry sector, subject to the rule.

(3) A comparison of:

(A) the cost benefit analysis for the rule prepared under section 13 of this chapter before the rule's implementation, including the information specified in subdivision (1); and

(B) the actual costs and benefits of the rule during the first three (3) years of the rule's implementation, including the following:

(i) Any actual primary and direct benefits of the rule, including the rule's impact on consumer protection, worker safety, the environment, and business competitiveness.

(ii) Any actual secondary or indirect benefits of the rule and an explanation of how the conduct regulated by the rule is linked to the primary and secondary benefits.

(iii) Any actual cost savings to regulated persons (including individuals and businesses) as a result of the rule, including any savings from a change in an existing requirement or from the imposition of a new requirement.

(4) For each element of the rule that is also the subject of restrictions or requirements imposed under federal law, a comparison of:

(A) the restrictions or requirements imposed under the rule; and

(B) the restrictions or requirements imposed under federal law.

(5) Any other information that the governor or the committee:

(A) requires with respect to a cost benefit analysis under this section; and

(B) requests in writing.

(f) In preparing a cost benefit analysis under this section, the OMB shall consider in its analysis any verified data provided voluntarily by interested parties, regulated persons, and nonprofit corporations whose members may be affected by the rule. A cost benefit analysis prepared under this section is a public document,

subject to the following:

(1) This subsection does not empower the OMB or an agency to require an interested party or a regulated person to provide any materials, documents, or other information. If an interested party or a regulated person voluntarily provides materials, documents, or other information to the OMB or an agency in connection with a cost benefit analysis under this section, the OMB or the agency, as applicable, shall ensure the adequate protection of any:

- (A) information that is confidential under IC 5-14-3-4; or
- (B) confidential and proprietary business plans and other confidential information.

If an agency has adopted rules to implement IC 5-14-3-4, interested parties and regulated persons must submit the information in accordance with the confidentiality rules adopted by the agency to ensure proper processing of confidentiality claims. The OMB and any agency involved in administering the rule shall exercise all necessary caution to avoid disclosure of any confidential information supplied to the OMB or the agency by an interested party or a regulated person.

(2) The OMB shall make the cost benefit analysis and other related public documents available to interested parties, regulated persons, and nonprofit corporations whose members may be affected by the rule at least thirty (30) days before presenting the cost benefit analysis to the governor and the committee under subsection (d).

(g) If the OMB or an agency is unable to obtain verified data for the cost benefit analysis described in subsection (e), the OMB shall state in the cost benefit analysis which data were unavailable for purposes of the cost benefit analysis.

(h) The governor or the committee, or both, may prescribe:

- (1) the form of a cost benefit analysis; and
- (2) the process, deadlines, and other requirements for submitting a cost benefit analysis;

required under this section.

*As added by P.L.131-2012, SEC.2.*

#### **IC 4-3-22-14**

#### **Agencies and instrumentalities; required compliance and cooperation**

Sec. 14. All instrumentalities, agencies, authorities, boards, commissions, and officers of the executive, including the administrative, department of state government, and all bodies corporate and politic established as instrumentalities of the state shall:

- (1) comply with the policies and procedures related to fiscal management that are established by the OMB and approved by the governor; and
- (2) cooperate with and provide assistance to the OMB.

*As added by P.L.246-2005, SEC.38.*

#### **IC 4-3-22-15**

##### **Agencies; accountability; compliance with statutory requirements**

Sec. 15. All state agencies (as defined in IC 4-12-1-2) shall, in addition to complying with all statutory duties applicable to state purchasing, be accountable to the OMB for adherence to policies, procedures, and spending controls established by the OMB and approved by the governor.

*As added by P.L.246-2005, SEC.38.*

#### **IC 4-3-22-16**

##### **Comments concerning proposed legislation**

Sec. 16. (a) As used in this section, "coordinator" means the following:

- (1) A small business regulatory coordinator (as defined in IC 4-22-2-28.1(b)).
- (2) An ombudsman designated under IC 13-28-3-2.
- (3) An ombudsman designated under IC 5-28-17-5.

(b) Each coordinator may review proposed legislation affecting the small businesses that are regulated by the agency or that would be regulated by the agency under proposed legislation. A coordinator may submit to the OMB written comments concerning the impact of proposed legislation on small business.

(c) The OMB may review comments received under subsection (b). The OMB may amend the comments. After completing its review, the OMB shall transmit the comments to the legislative services agency for posting on the general assembly's web site. The comments submitted under this section shall be transmitted electronically in a format suitable for posting to the general assembly's web site as determined by the legislative services agency.  
*As added by P.L.137-2006, SEC.2. Amended by P.L.110-2010, SEC.1.*

#### **IC 4-3-22-17**

##### **Calculate estimate of total costs of illegal aliens; written request to Congress for reimbursement**

Sec. 17. (a) As used in this section, "alien" has the meaning set forth in 8 U.S.C. 1101(a).

(b) As used in this section, "illegal alien" means an alien who has come to, entered, or remained in the United States in violation of the law.

(c) As used in this section, "total costs" includes, but is not limited to, costs related to incarceration, education, health care, and public assistance.

(d) Not later than July 1, 2012, the OMB shall, using existing resources, do the following:

- (1) Calculate an estimate of the total costs of illegal aliens to the state of Indiana.
- (2) Make a written request to the Congress of the United States to reimburse the state of Indiana for the costs calculated under subdivision (1).



(e) This section expires July 1, 2013.  
*As added by P.L.171-2011, SEC.1.*

**IC 4-3-22-18**

**Center for deaf and hard of hearing education; determination of appropriate agency**

Sec. 18. Before July 1, 2013, the office of management and budget, in consultation with the Indiana School for the Deaf, the department of education, the state department of health, and the office of the secretary of family and social services, shall recommend to the general assembly through the budget process an appropriate agency to provide office space and staff support for the center for deaf and hard of hearing education established under IC 20-35-11. Until the center for deaf and hard of hearing education is established and operating, the Indiana School for the Deaf shall continue to provide those services that will be transferred from the Indiana School for the Deaf to the center for deaf and hard of hearing education or local education agencies at the time the center is established and operating.

*As added by P.L.109-2012, SEC.1.*

**IC 4-3-22-18.2**

**Duties; OPEB reports**

Sec. 18.2. The OMB shall, not later than December 1 each year, submit to the budget committee the following reports concerning post-employment benefits (as defined in IC 5-10-16-5):

- (1) The report prepared by the OMB for state agencies under IC 5-10-16-7.
- (2) Reports received from state educational institutions under IC 21-38-3-13.

*As added by P.L.138-2012, SEC.1.*