

As Introduced

**128th General Assembly
Regular Session
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H. B. No. 311

Representatives McGregor, Balderson

**Cosponsors: Representatives Zehringer, Gardner, Hall, Mecklenborg,
Snitchler, Wagner, Hite, Combs, Wachtmann, Morgan, Adams, R., Oelslager,
Huffman, Boose, Lehner, Hottinger, Amstutz, Blair, Beck**

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A B I L L

To amend sections 101.35, 103.0511, 111.15, 117.20, 1
119.03, 121.39, 122.08, 122.081, and 122.94, to 2
enact sections 121.25 and 121.251 to 121.257, and 3
to repeal sections 119.031 and 121.24 of the 4
Revised Code to require a rule-making agency to 5
prepare cost-benefit and regulatory flexibility 6
reports for rules that may have any adverse impact 7
on small businesses and submit them to the new 8
Ohio Small Business Ombudsperson in the Office of 9
Small Business, to create the Small Business 10
Regulatory Review Board to review objections to 11
those rules and make recommendations to the Joint 12
Committee on Agency Rule Review regarding the 13
rules, and to require the Ombudsperson annually to 14
submit a rule impact report to the Governor and 15
General Assembly. 16
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 101.35, 103.0511, 111.15, 117.20, 18

119.03, 121.39, 122.08, 122.081, and 122.94 be amended and 19
sections 121.25, 121.251, 121.252, 121.253, 121.254, 121.255, 20
121.256, and 121.257 of the Revised Code be enacted to read as 21
follows: 22

Sec. 101.35. There is hereby created in the general assembly 23
the joint committee on agency rule review. The committee shall 24
consist of five members of the house of representatives and five 25
members of the senate. Within fifteen days after the commencement 26
of the first regular session of each general assembly, the speaker 27
of the house of representatives shall appoint the members of the 28
committee from the house of representatives, and the president of 29
the senate shall appoint the members of the committee from the 30
senate. Not more than three of the members from each house shall 31
be of the same political party. In the first regular session of a 32
general assembly, the chairperson of the committee shall be 33
appointed by the speaker of the house from among the house members 34
of the committee, and the vice-chairperson shall be appointed by 35
the president of the senate from among the senate members of the 36
committee. In the second regular session of a general assembly, 37
the chairperson shall be appointed by the president of the senate 38
from among the senate members of the committee, and the 39
vice-chairperson shall be appointed by the speaker of the house 40
from among the house members of the committee. The chairperson, 41
vice-chairperson, and members of the committee shall serve until 42
their respective successors are appointed or until they are no 43
longer members of the general assembly. When a vacancy occurs 44
among the officers or members of the committee, it shall be filled 45
in the same manner as the original appointment. 46

Notwithstanding section 101.26 of the Revised Code, the 48
members, when engaged in their duties as members of the committee 49

on days when there is not a voting session of the member's house 50
of the general assembly, shall be paid at the per diem rate of one 51
hundred fifty dollars, and their necessary traveling expenses, 52
which shall be paid from the funds appropriated for the payment of 53
expenses of legislative committees. 54

The committee has the same powers as other standing or select 55
committees of the general assembly. Six members constitute a 56
quorum, and the concurrence of six members is required for the 57
recommendation of a concurrent resolution invalidating a proposed 58
or effective rule, amendment, rescission, or part thereof, or for 59
the suspension of a rule, amendment, rescission, or part thereof, 60
under division (I) of section 119.03 ~~or section 119.031~~ of the 61
Revised Code. 62

When a member of the committee is absent, the president or 63
speaker, as the case may be, may designate a substitute from the 64
same house and political party as the absent member. The 65
substitute shall serve on the committee in the member's absence, 66
and is entitled to perform the duties of a member of the 67
committee. For serving on the committee, the substitute shall be 68
paid the same per diem and necessary traveling expenses as the 69
substitute would be entitled to receive if the substitute were a 70
member of the committee. 71

The president or speaker shall inform the executive director 72
of the committee of a substitution. If the executive director 73
learns of a substitution sufficiently in advance of the meeting of 74
the committee the substitute is to attend, the executive director 75
shall publish notice of the substitution on the internet, make 76
reasonable effort to inform of the substitution persons who are 77
known to the executive director to be interested in rules that are 78
scheduled for review at the meeting, and inform of the 79
substitution persons who inquire of the executive director 80
concerning the meeting. 81

The committee may meet during periods in which the general assembly has adjourned. At meetings of the committee, the committee may request a rule-making agency, as defined in section 119.01 of the Revised Code, to provide information relative to the agency's implementation of its statutory authority.

A member of the committee, and the executive director and staff of the committee, are entitled in their official capacities to attend, but not in their official capacities to participate in, a public hearing conducted by a rule-making agency on a proposed rule, amendment, or rescission.

Sec. 103.0511. The director of the legislative service commission shall establish and maintain, and enhance and improve, an electronic rule-filing system connecting:

(A) The legislative service commission, the joint committee on agency rule review, the secretary of state, the small business regulatory review board, and the ~~office of small business~~ Ohio small business ombudsperson;

(B) The governor, the senate and house of representatives, and the clerks of the senate and house of representatives;

(C) Each agency that files rules and other rule-making and rule-related documents with the legislative service commission, the joint committee on agency rule review, the governor, the secretary of state, the ~~office of small business~~ Ohio small business ombudsperson, the general assembly, or a committee of the senate or house of representatives under section 111.15, 117.20, 119.03, ~~119.031~~, 119.032, 119.0311, 119.04, ~~121.24~~, 121.254, 121.39, 127.18, 4141.14, 5117.02, or 5703.14 of the Revised Code or any other statute;

(D) The several publishers of the Administrative Code; and

(E) Any other person or governmental officer or entity whose

inclusion in the system is required for the system to be a 112
complete electronic rule-filing system. 113

The electronic rule-filing system is to enable rules and 114
rule-making and rule-related documents to be filed, and official 115
responses to these filings to be made, exclusively by electronic 116
means. 117

Sec. 111.15. (A) As used in this section: 118

(1) "Rule" includes any rule, regulation, bylaw, or standard 119
having a general and uniform operation adopted by an agency under 120
the authority of the laws governing the agency; any appendix to a 121
rule; and any internal management rule. "Rule" does not include 122
any guideline adopted pursuant to section 3301.0714 of the Revised 123
Code, any order respecting the duties of employees, any finding, 124
any determination of a question of law or fact in a matter 125
presented to an agency, or any rule promulgated pursuant to 126
Chapter 119., section 4141.14, division (C)(1) or (2) of section 127
5117.02, or section 5703.14 of the Revised Code. "Rule" includes 128
any amendment or rescission of a rule. 129

(2) "Agency" means any governmental entity of the state and 130
includes, but is not limited to, any board, department, division, 131
commission, bureau, society, council, institution, state college 132
or university, community college district, technical college 133
district, or state community college. "Agency" does not include 134
the general assembly, the controlling board, the adjutant 135
general's department, or any court. 136

(3) "Internal management rule" means any rule, regulation, 137
bylaw, or standard governing the day-to-day staff procedures and 138
operations within an agency. 139

(4) "Substantive revision" has the same meaning as in 140
division (J) of section 119.01 of the Revised Code. 141

(B)(1) Any rule, other than a rule of an emergency nature, 142
adopted by any agency pursuant to this section shall be effective 143
on the tenth day after the day on which the rule in final form and 144
in compliance with division (B)(3) of this section is filed as 145
follows: 146

(a) The rule shall be filed in electronic form with both the 147
secretary of state and the director of the legislative service 148
commission; 149

(b) The rule shall be filed in electronic form with the joint 150
committee on agency rule review. Division (B)(1)(b) of this 151
section does not apply to any rule to which division (D) of this 152
section does not apply. 153

An agency that adopts or amends a rule that is subject to 154
division (D) of this section shall assign a review date to the 155
rule that is not later than five years after its effective date. 156
If no review date is assigned to a rule, or if a review date 157
assigned to a rule exceeds the five-year maximum, the review date 158
for the rule is five years after its effective date. A rule with a 159
review date is subject to review under section 119.032 of the 160
Revised Code. This paragraph does not apply to a rule of a state 161
college or university, community college district, technical 162
college district, or state community college. 163

If all filings are not completed on the same day, the rule 164
shall be effective on the tenth day after the day on which the 165
latest filing is completed. If an agency in adopting a rule 166
designates an effective date that is later than the effective date 167
provided for by division (B)(1) of this section, the rule if filed 168
as required by such division shall become effective on the later 169
date designated by the agency. 170

Any rule that is required to be filed under division (B)(1) 171
of this section is also subject to division (D) of this section if 172

not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or 173
(8) of this section. 174

If a rule incorporates a text or other material by reference, 175
the agency shall comply with sections 121.71 to 121.76 of the 176
Revised Code. 177

(2) A rule of an emergency nature necessary for the immediate 178
preservation of the public peace, health, or safety shall state 179
the reasons for the necessity. The emergency rule, in final form 180
and in compliance with division (B)(3) of this section, shall be 181
filed in electronic form with the secretary of state, the director 182
of the legislative service commission, and the joint committee on 183
agency rule review. The emergency rule is effective immediately 184
upon completion of the latest filing, except that if the agency in 185
adopting the emergency rule designates an effective date, or date 186
and time of day, that is later than the effective date and time 187
provided for by division (B)(2) of this section, the emergency 188
rule if filed as required by such division shall become effective 189
at the later date, or later date and time of day, designated by 190
the agency. 191

An emergency rule becomes invalid at the end of the ninetieth 192
day it is in effect. Prior to that date, the agency may file the 193
emergency rule as a nonemergency rule in compliance with division 194
(B)(1) of this section. The agency may not refile the emergency 195
rule in compliance with division (B)(2) of this section so that, 196
upon the emergency rule becoming invalid under such division, the 197
emergency rule will continue in effect without interruption for 198
another ninety-day period. 199

(3) An agency shall file a rule under division (B)(1) or (2) 200
of this section in compliance with the following standards and 201
procedures: 202

(a) The rule shall be numbered in accordance with the 203

numbering system devised by the director for the Ohio administrative code.

(b) The rule shall be prepared and submitted in compliance with the rules of the legislative service commission.

(c) The rule shall clearly state the date on which it is to be effective and the date on which it will expire, if known.

(d) Each rule that amends or rescinds another rule shall clearly refer to the rule that is amended or rescinded. Each amendment shall fully restate the rule as amended.

If the director of the legislative service commission or the director's designee gives an agency notice pursuant to section 103.05 of the Revised Code that a rule filed by the agency is not in compliance with the rules of the legislative service commission, the agency shall within thirty days after receipt of the notice conform the rule to the rules of the commission as directed in the notice.

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) of this section shall be recorded by the secretary of state and the director under the title of the agency adopting the rule and shall be numbered according to the numbering system devised by the director. The secretary of state and the director shall preserve the rules in an accessible manner. Each such rule shall be a public record open to public inspection and may be transmitted to any law publishing company that wishes to reproduce it.

(D) At least sixty-five days before a board, commission, department, division, or bureau of the government of the state files a rule under division (B)(1) of this section, it shall file the full text of the proposed rule in electronic form with the joint committee on agency rule review, and the proposed rule is subject to legislative review and invalidation under division (I) of section 119.03 of the Revised Code. If a state board,

commission, department, division, or bureau makes a substantive 235
revision in a proposed rule after it is filed with the joint 236
committee, the state board, commission, department, division, or 237
bureau shall promptly file the full text of the proposed rule in 238
its revised form in electronic form with the joint committee. The 239
latest version of a proposed rule as filed with the joint 240
committee supersedes each earlier version of the text of the same 241
proposed rule. Except as provided in division (F) of this section, 242
a state board, commission, department, division, or bureau shall 243
also file the rule summary and fiscal analysis prepared under 244
section ~~121.24~~ or 127.18 of the Revised Code, ~~or both,~~ in 245
electronic form along with a proposed rule, and along with a 246
proposed rule in revised form, that is filed under this division. 247

The joint committee shall promptly file a notice in 248
electronic form with the Ohio small business ombudsperson of the 249
filing under this division of a proposed rule, or of a proposed 250
rule in revised form, that previously was filed with the 251
ombudsperson under section 121.254 of the Revised Code. 252

As used in this division, "commission" includes the public 253
utilities commission when adopting rules under a federal or state 254
statute. 255

This division does not apply to any of the following: 256

(1) A proposed rule of an emergency nature; 257

(2) A rule proposed under section 1121.05, 1121.06, 1155.18, 258
1163.22, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 259
4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised 260
Code; 261

(3) A rule proposed by an agency other than a board, 262
commission, department, division, or bureau of the government of 263
the state; 264

(4) A proposed internal management rule of a board, 265

commission, department, division, or bureau of the government of 266
the state; 267

(5) Any proposed rule that must be adopted verbatim by an 268
agency pursuant to federal law or rule, to become effective within 269
sixty days of adoption, in order to continue the operation of a 270
federally reimbursed program in this state, so long as the 271
proposed rule contains both of the following: 272

(a) A statement that it is proposed for the purpose of 273
complying with a federal law or rule; 274

(b) A citation to the federal law or rule that requires 275
verbatim compliance. 276

(6) An initial rule proposed by the director of health to 277
impose safety standards and quality-of-care standards with respect 278
to a health service specified in section 3702.11 of the Revised 279
Code, or an initial rule proposed by the director to impose 280
quality standards on a facility listed in division (A)(4) of 281
section 3702.30 of the Revised Code, if section 3702.12 of the 282
Revised Code requires that the rule be adopted under this section; 283

(7) A rule of the state lottery commission pertaining to 284
instant game rules. 285

If a rule is exempt from legislative review under division 286
(D)(5) of this section, and if the federal law or rule pursuant to 287
which the rule was adopted expires, is repealed or rescinded, or 288
otherwise terminates, the rule is thereafter subject to 289
legislative review under division (D) of this section. 290

(E) Whenever a state board, commission, department, division, 291
or bureau files a proposed rule or a proposed rule in revised form 292
under division (D) of this section, it shall also file the full 293
text of the same proposed rule or proposed rule in revised form in 294
electronic form with the secretary of state and the director of 295
the legislative service commission. Except as provided in division 296

(F) of this section, a state board, commission, department, 297
division, or bureau shall file the rule summary and fiscal 298
analysis prepared under section ~~121.24~~ or 127.18 of the Revised 299
Code, ~~or both~~, in electronic form along with a proposed rule or 300
proposed rule in revised form that is filed with the secretary of 301
state or the director of the legislative service commission. 302

(F) Except as otherwise provided in this division, the 303
auditor of state or the auditor of state's designee is not 304
required to file a rule summary and fiscal analysis along with a 305
proposed rule, or proposed rule in revised form, that the auditor 306
of state proposes under section 117.12, 117.19, 117.38, or 117.43 307
of the Revised Code and files under division (D) or (E) of this 308
section. ~~If, however, the auditor of state or the designee 309
prepares a rule summary and fiscal analysis of the original 310
version of such a proposed rule for purposes of complying with 311
section 121.24 of the Revised Code, the auditor of state or 312
designee shall file the rule summary and fiscal analysis in 313
electronic form along with the original version of the proposed 314
rule filed under division (D) or (E) of this section. 315~~

Sec. 117.20. (A) In adopting rules pursuant to Chapter 117. 316
of the Revised Code, the auditor of state or the auditor of 317
state's designee shall do both of the following: 318

(1) Before adopting any such rule, except a rule of an 319
emergency nature, do each of the following: 320

(a) At least thirty-five days before any public hearing on 321
the proposed rule-making action, mail notice of the hearing to 322
each public office and to each statewide organization that the 323
auditor of state or designee determines will be affected or 324
represents persons who will be affected by the proposed 325
rule-making action; 326

(b) Mail a copy of the proposed rule to any person or 327

organization that requests a copy within five days after receipt 328
of the request; 329

(c) Consult with appropriate state and local government 330
agencies, or with persons representative of their interests, 331
including statewide organizations of local government officials, 332
and consult with accounting professionals and other interested 333
persons; 334

(d) Conduct, on the date and at the time and place designated 335
in the notice, a public hearing at which any person affected by 336
the proposed rule, including statewide organizations of local 337
government officials, may appear and be heard in person, by 338
attorney, or both, and may present the person's or organization's 339
position or contentions orally or in writing. 340

(2) Except as otherwise provided in division (A)(2) of this 341
section, comply with divisions (B) to (E) of section 111.15 of the 342
Revised Code. The auditor of state is not required to file a rule 343
summary and fiscal analysis along with any copy of a proposed 344
rule, or proposed rule in revised form, that is filed with the 345
joint committee on agency rule review, the secretary of state, or 346
the director of the legislative service commission under division 347
(D) or (E) of section 111.15 of the Revised Code; ~~however, if the~~ 348
~~auditor of state or the auditor of state's designee prepares a~~ 349
~~rule summary and fiscal analysis of the original version of a~~ 350
~~proposed rule for purposes of complying with section 121.24 of the~~ 351
~~Revised Code, the auditor of state or designee shall file a copy~~ 352
~~of the rule summary and fiscal analysis in electronic form along~~ 353
~~with the original version of the proposed rule filed under~~ 354
~~division (D) or (E) of section 111.15 of the Revised Code.~~ 355

(B) The auditor of state shall diligently discharge the 356
duties imposed by divisions (A)(1)(a), (b), and (c) of this 357
section, but failure to mail any notice or copy of a proposed 358
rule, or to consult with any person or organization, shall not 359

invalidate any rule. 360

(C) Notwithstanding any contrary provision of the Revised 361
Code, the auditor of state may prepare and disseminate, to public 362
offices and other interested persons and organizations, advisory 363
bulletins, directives, and instructions relating to accounting and 364
financial reporting systems, budgeting procedures, fiscal 365
controls, and the constructions by the auditor of state of 366
constitutional and statutory provisions, court decisions, and 367
opinions of the attorney general. The bulletins, directives, and 368
instructions shall be of an advisory nature only. 369

(D) As used in this section, "rule" includes the adoption, 370
amendment, or rescission of a rule. 371

Sec. 119.03. In the adoption, amendment, or rescission of any 372
rule, an agency shall comply with the following procedure: 373

(A) Reasonable public notice shall be given in the register 374
of Ohio at least thirty days prior to the date set for a hearing, 375
in the form the agency determines. The agency shall file copies of 376
the public notice under division (B) of this section. (The agency 377
gives public notice in the register of Ohio when the public notice 378
is published in the register under that division.) 379

The public notice shall include: 380

(1) A statement of the agency's intention to consider 381
adopting, amending, or rescinding a rule; 382

(2) A synopsis of the proposed rule, amendment, or rule to be 383
rescinded or a general statement of the subject matter to which 384
the proposed rule, amendment, or rescission relates; 385

(3) A statement of the reason or purpose for adopting, 386
amending, or rescinding the rule; 387

(4) The date, time, and place of a hearing on the proposed 388
action, which shall be not earlier than the thirty-first nor later 389

than the fortieth day after the proposed rule, amendment, or 390
rescission is filed under division (B) of this section. 391

In addition to public notice given in the register of Ohio, 392
the agency may give whatever other notice it reasonably considers 393
necessary to ensure notice constructively is given to all persons 394
who are subject to or affected by the proposed rule, amendment, or 395
rescission. 396

The agency shall provide a copy of the public notice required 397
under division (A) of this section to any person who requests it 398
and pays a reasonable fee, not to exceed the cost of copying and 399
mailing. 400

(B) The full text of the proposed rule, amendment, or rule to 401
be rescinded, accompanied by the public notice required under 402
division (A) of this section, shall be filed in electronic form 403
with the secretary of state and with the director of the 404
legislative service commission. (If in compliance with this 405
division an agency files more than one proposed rule, amendment, 406
or rescission at the same time, and has prepared a public notice 407
under division (A) of this section that applies to more than one 408
of the proposed rules, amendments, or rescissions, the agency 409
shall file only one notice with the secretary of state and with 410
the director for all of the proposed rules, amendments, or 411
rescissions to which the notice applies.) The proposed rule, 412
amendment, or rescission and public notice shall be filed as 413
required by this division at least sixty-five days prior to the 414
date on which the agency, in accordance with division (D) of this 415
section, issues an order adopting the proposed rule, amendment, or 416
rescission. 417

If the proposed rule, amendment, or rescission incorporates a 418
text or other material by reference, the agency shall comply with 419
sections 121.71 to 121.76 of the Revised Code. 420

The proposed rule, amendment, or rescission shall be 421
available for at least thirty days prior to the date of the 422
hearing at the office of the agency in printed or other legible 423
form without charge to any person affected by the proposal. 424
Failure to furnish such text to any person requesting it shall not 425
invalidate any action of the agency in connection therewith. 426

If the agency files a substantive revision in the text of the 427
proposed rule, amendment, or rescission under division (H) of this 428
section, it shall also promptly file the full text of the proposed 429
rule, amendment, or rescission in its revised form in electronic 430
form with the secretary of state and with the director of the 431
legislative service commission. 432

The agency shall file the rule summary and fiscal analysis 433
prepared under section ~~121.24~~ or 127.18 of the Revised Code, ~~or~~ 434
~~both~~, in electronic form along with a proposed rule, amendment, or 435
rescission or proposed rule, amendment, or rescission in revised 436
form that is filed with the secretary of state or the director of 437
the legislative service commission. 438

The director of the legislative service commission shall 439
publish in the register of Ohio the full text of the original and 440
each revised version of a proposed rule, amendment, or rescission; 441
the full text of a public notice; and the full text of a rule 442
summary and fiscal analysis that is filed with the director under 443
this division. 444

(C) On the date and at the time and place designated in the 445
notice, the agency shall conduct a public hearing at which any 446
person affected by the proposed action of the agency may appear 447
and be heard in person, by the person's attorney, or both, may 448
present the person's position, arguments, or contentions, orally 449
or in writing, offer and examine witnesses, and present evidence 450
tending to show that the proposed rule, amendment, or rescission, 451
if adopted or effectuated, will be unreasonable or unlawful. An 452

agency may permit persons affected by the proposed rule, 453
amendment, or rescission to present their positions, arguments, or 454
contentions in writing, not only at the hearing, but also for a 455
reasonable period before, after, or both before and after the 456
hearing. A person who presents a position or arguments or 457
contentions in writing before or after the hearing is not required 458
to appear at the hearing. 459

At the hearing, the testimony shall be recorded. Such record 460
shall be made at the expense of the agency. The agency is required 461
to transcribe a record that is not sight readable only if a person 462
requests transcription of all or part of the record and agrees to 463
reimburse the agency for the costs of the transcription. An agency 464
may require the person to pay in advance all or part of the cost 465
of the transcription. 466

In any hearing under this section the agency may administer 467
oaths or affirmations. 468

(D) After complying with divisions (A), (B), (C), and (H) of 469
this section, and when the time for legislative review and 470
invalidation under division (I) of this section has expired, the 471
agency may issue an order adopting the proposed rule or the 472
proposed amendment or rescission of the rule, consistent with the 473
synopsis or general statement included in the public notice. At 474
that time the agency shall designate the effective date of the 475
rule, amendment, or rescission, which shall not be earlier than 476
the tenth day after the rule, amendment, or rescission has been 477
filed in its final form as provided in section 119.04 of the 478
Revised Code. 479

(E) Prior to the effective date of a rule, amendment, or 480
rescission, the agency shall make a reasonable effort to inform 481
those affected by the rule, amendment, or rescission and to have 482
available for distribution to those requesting it the full text of 483
the rule as adopted or as amended. 484

(F) If the governor, upon the request of an agency, 485
determines that an emergency requires the immediate adoption, 486
amendment, or rescission of a rule, the governor shall issue an 487
order, the text of which shall be filed in electronic form with 488
the agency, the secretary of state, the director of the 489
legislative service commission, and the joint committee on agency 490
rule review, that the procedure prescribed by this section with 491
respect to the adoption, amendment, or rescission of a specified 492
rule is suspended. The agency may then adopt immediately the 493
emergency rule, amendment, or rescission and it becomes effective 494
on the date the rule, amendment, or rescission, in final form and 495
in compliance with division (A)(2) of section 119.04 of the 496
Revised Code, ~~are~~ is filed in electronic form with the secretary 497
of state, the director of the legislative service commission, and 498
the joint committee on agency rule review. If all filings are not 499
completed on the same day, the emergency rule, amendment, or 500
rescission shall be effective on the day on which the latest 501
filing is completed. The director shall publish the full text of 502
the emergency rule, amendment, or rescission in the register of 503
Ohio. 504

The emergency rule, amendment, or rescission shall become 505
invalid at the end of the ninetieth day it is in effect. Prior to 506
that date the agency may adopt the emergency rule, amendment, or 507
rescission as a nonemergency rule, amendment, or rescission by 508
complying with the procedure prescribed by this section for the 509
adoption, amendment, and rescission of nonemergency rules. The 510
agency shall not use the procedure of this division to readopt the 511
emergency rule, amendment, or rescission so that, upon the 512
emergency rule, amendment, or rescission becoming invalid under 513
this division, the emergency rule, amendment, or rescission will 514
continue in effect without interruption for another ninety-day 515
period, except when division (I)(2)(a) of this section prevents 516
the agency from adopting the emergency rule, amendment, or 517

rescission as a nonemergency rule, amendment, or rescission within 518
the ninety-day period. 519

This division does not apply to the adoption of any emergency 520
rule, amendment, or rescission by the tax commissioner under 521
division (C)(2) of section 5117.02 of the Revised Code. 522

(G) Rules adopted by an authority within the department of 523
job and family services for the administration or enforcement of 524
Chapter 4141. of the Revised Code or of the department of taxation 525
shall be effective without a hearing as provided by this section 526
if the statutes pertaining to such agency specifically give a 527
right of appeal to the board of tax appeals or to a higher 528
authority within the agency or to a court, and also give the 529
appellant a right to a hearing on such appeal. This division does 530
not apply to the adoption of any rule, amendment, or rescission by 531
the tax commissioner under division (C)(1) or (2) of section 532
5117.02 of the Revised Code, or deny the right to file an action 533
for declaratory judgment as provided in Chapter 2721. of the 534
Revised Code from the decision of the board of tax appeals or of 535
the higher authority within such agency. 536

(H) When any agency files a proposed rule, amendment, or 537
rescission under division (B) of this section, it shall also file 538
in electronic form with the joint committee on agency rule review 539
the full text of the proposed rule, amendment, or rule to be 540
rescinded in the same form and the public notice required under 541
division (A) of this section. (If in compliance with this division 542
an agency files more than one proposed rule, amendment, or 543
rescission at the same time, and has given a public notice under 544
division (A) of this section that applies to more than one of the 545
proposed rules, amendments, or rescissions, the agency shall file 546
only one notice with the joint committee for all of the proposed 547
rules, amendments, or rescissions to which the notice applies.) If 548
the agency makes a substantive revision in a proposed rule, 549

amendment, or rescission after it is filed with the joint 550
committee, the agency shall promptly file the full text of the 551
proposed rule, amendment, or rescission in its revised form in 552
electronic form with the joint committee. The latest version of a 553
proposed rule, amendment, or rescission as filed with the joint 554
committee supersedes each earlier version of the text of the same 555
proposed rule, amendment, or rescission. An agency shall file the 556
rule summary and fiscal analysis prepared under section ~~121.24~~ ~~or~~ 557
127.18 of the Revised Code, ~~or both~~, in electronic form along with 558
a proposed rule, amendment, or rescission, and along with a 559
proposed rule, amendment, or rescission in revised form, that is 560
filed under this division. 561

The joint committee shall promptly file a notice in 562
electronic form with the Ohio small business ombudsperson of the 563
filing under this division of a proposed rule, amendment, or 564
rescission, or of a proposed rule, amendment, or rescission in 565
revised form, that previously was filed with the ombudsperson 566
under section 121.254 of the Revised Code. 567

This division does not apply to: 568

(1) An emergency rule, amendment, or rescission; 569

(2) Any proposed rule, amendment, or rescission that must be 570
adopted verbatim by an agency pursuant to federal law or rule, to 571
become effective within sixty days of adoption, in order to 572
continue the operation of a federally reimbursed program in this 573
state, so long as the proposed rule contains both of the 574
following: 575

(a) A statement that it is proposed for the purpose of 576
complying with a federal law or rule; 577

(b) A citation to the federal law or rule that requires 578
verbatim compliance. 579

If a rule or amendment is exempt from legislative review 580

under division (H)(2) of this section, and if the federal law or 581
rule pursuant to which the rule or amendment was adopted expires, 582
is repealed or rescinded, or otherwise terminates, the rule or 583
amendment, or its rescission, is thereafter subject to legislative 584
review under division (H) of this section. 585

(I)(1) The joint committee on agency rule review may 586
recommend the adoption of a concurrent resolution invalidating a 587
proposed rule, amendment, rescission, or part thereof if it finds 588
any of the following: 589

(a) That the rule-making agency has exceeded the scope of its 590
statutory authority in proposing the rule, amendment, or 591
rescission; 592

(b) That the proposed rule, amendment, or rescission 593
conflicts with another rule, amendment, or rescission adopted by 594
the same or a different rule-making agency; 595

(c) That the proposed rule, amendment, or rescission 596
conflicts with the legislative intent in enacting the statute 597
under which the rule-making agency proposed the rule, amendment, 598
or rescission; 599

(d) That the rule-making agency has failed to prepare a 600
complete and accurate rule summary and fiscal analysis of the 601
proposed rule, amendment, or rescission as required by section 602
~~121.24 or 127.18 of the Revised Code, or both, or that;~~ 603

(e) That the proposed rule, amendment, or rescission 604
incorporates a text or other material by reference and either the 605
rule-making agency has failed to file the text or other material 606
incorporated by reference as required by section 121.73 of the 607
Revised Code or, in the case of a proposed rule or amendment, the 608
incorporation by reference fails to meet the standards stated in 609
section 121.72, 121.75, or 121.76 of the Revised Code; or 610

(f) That the rule-making agency has failed to comply with 611

section 121.252, 121.253, or 121.254 of the Revised Code. 612

The joint committee shall not hold its public hearing on a 613
proposed rule, amendment, or rescission earlier than the 614
forty-first day after the original version of the proposed rule, 615
amendment, or rescission was filed with the joint committee. 616

The house of representatives and senate may adopt a 617
concurrent resolution invalidating a proposed rule, amendment, 618
rescission, or part thereof. The concurrent resolution shall state 619
which of the specific rules, amendments, rescissions, or parts 620
thereof are invalidated. A concurrent resolution invalidating a 621
proposed rule, amendment, or rescission shall be adopted not later 622
than the sixty-fifth day after the original version of the text of 623
the proposed rule, amendment, or rescission is filed with the 624
joint committee, except that if more than thirty-five days after 625
the original version is filed the rule-making agency either files 626
a revised version of the text of the proposed rule, amendment, or 627
rescission, or revises the rule summary and fiscal analysis in 628
accordance with division (I)(4) of this section, a concurrent 629
resolution invalidating the proposed rule, amendment, or 630
rescission shall be adopted not later than the thirtieth day after 631
the revised version of the proposed rule or rule summary and 632
fiscal analysis is filed. If, after the joint committee on agency 633
rule review recommends the adoption of a concurrent resolution 634
invalidating a proposed rule, amendment, rescission, or part 635
thereof, the house of representatives or senate does not, within 636
the time remaining for adoption of the concurrent resolution, hold 637
five floor sessions at which its journal records a roll call vote 638
disclosing a sufficient number of members in attendance to pass a 639
bill, the time within which that house may adopt the concurrent 640
resolution is extended until it has held five such floor sessions. 641

Within five days after the adoption of a concurrent 642
resolution invalidating a proposed rule, amendment, rescission, or 643

part thereof, the clerk of the senate shall send the rule-making 644
agency, the secretary of state, and the director of the 645
legislative service commission in electronic form a certified text 646
of the resolution together with a certification stating the date 647
on which the resolution takes effect. The secretary of state and 648
the director of the legislative service commission shall each note 649
the invalidity of the proposed rule, amendment, rescission, or 650
part thereof, and shall each remove the invalid proposed rule, 651
amendment, rescission, or part thereof from the file of proposed 652
rules. The rule-making agency shall not proceed to adopt in 653
accordance with division (D) of this section, or to file in 654
accordance with division (B)(1) of section 111.15 of the Revised 655
Code, any version of a proposed rule, amendment, rescission, or 656
part thereof that has been invalidated by concurrent resolution. 657

Unless the house of representatives and senate adopt a 658
concurrent resolution invalidating a proposed rule, amendment, 659
rescission, or part thereof within the time specified by this 660
division, the rule-making agency may proceed to adopt in 661
accordance with division (D) of this section, or to file in 662
accordance with division (B)(1) of section 111.15 of the Revised 663
Code, the latest version of the proposed rule, amendment, or 664
rescission as filed with the joint committee. If by concurrent 665
resolution certain of the rules, amendments, rescissions, or parts 666
thereof are specifically invalidated, the rule-making agency may 667
proceed to adopt, in accordance with division (D) of this section, 668
or to file in accordance with division (B)(1) of section 111.15 of 669
the Revised Code, the latest version of the proposed rules, 670
amendments, rescissions, or parts thereof as filed with the joint 671
committee that are not specifically invalidated. The rule-making 672
agency may not revise or amend any proposed rule, amendment, 673
rescission, or part thereof that has not been invalidated except 674
as provided in this chapter or in section 111.15 of the Revised 675
Code. 676

(2)(a) A proposed rule, amendment, or rescission that is 677
filed with the joint committee under division (H) of this section 678
or division (D) of section 111.15 of the Revised Code shall be 679
carried over for legislative review to the next succeeding regular 680
session of the general assembly if the original or any revised 681
version of the proposed rule, amendment, or rescission is filed 682
with the joint committee on or after the first day of December of 683
any year. 684

(b) The latest version of any proposed rule, amendment, or 685
rescission that is subject to division (I)(2)(a) of this section, 686
as filed with the joint committee, is subject to legislative 687
review and invalidation in the next succeeding regular session of 688
the general assembly in the same manner as if it were the original 689
version of a proposed rule, amendment, or rescission that had been 690
filed with the joint committee for the first time on the first day 691
of the session. A rule-making agency shall not adopt in accordance 692
with division (D) of this section, or file in accordance with 693
division (B)(1) of section 111.15 of the Revised Code, any version 694
of a proposed rule, amendment, or rescission that is subject to 695
division (I)(2)(a) of this section until the time for legislative 696
review and invalidation, as contemplated by division (I)(2)(b) of 697
this section, has expired. 698

(3) Invalidation of any version of a proposed rule, 699
amendment, rescission, or part thereof by concurrent resolution 700
shall prevent the rule-making agency from instituting or 701
continuing proceedings to adopt any version of the same proposed 702
rule, amendment, rescission, or part thereof for the duration of 703
the general assembly that invalidated the proposed rule, 704
amendment, rescission, or part thereof unless the same general 705
assembly adopts a concurrent resolution permitting the rule-making 706
agency to institute or continue such proceedings. 707

The failure of the general assembly to invalidate a proposed 708

rule, amendment, rescission, or part thereof under this section 709
shall not be construed as a ratification of the lawfulness or 710
reasonableness of the proposed rule, amendment, rescission, or any 711
part thereof or of the validity of the procedure by which the 712
proposed rule, amendment, rescission, or any part thereof was 713
proposed or adopted. 714

(4) In lieu of recommending a concurrent resolution to 715
invalidate a proposed rule, amendment, rescission, or part thereof 716
because the rule-making agency has failed to prepare a complete 717
and accurate fiscal analysis, the joint committee on agency rule 718
review may issue, on a one-time basis, for rules, amendments, 719
rescissions, or parts thereof that have a fiscal effect on school 720
districts, counties, townships, or municipal corporations, a 721
finding that the rule summary and fiscal analysis is incomplete or 722
inaccurate and order the rule-making agency to revise the rule 723
summary and fiscal analysis and refile it with the proposed rule, 724
amendment, rescission, or part thereof. If an emergency rule is 725
filed as a nonemergency rule before the end of the ninetieth day 726
of the emergency rule's effectiveness, and the joint committee 727
issues a finding and orders the rule-making agency to refile under 728
division (I)(4) of this section, the governor may also issue an 729
order stating that the emergency rule shall remain in effect for 730
an additional sixty days after the ninetieth day of the emergency 731
rule's effectiveness. The governor's orders shall be filed in 732
accordance with division (F) of this section. The joint committee 733
shall send in electronic form to the rule-making agency, the 734
secretary of state, and the director of the legislative service 735
commission a certified text of the finding and order to revise the 736
rule summary and fiscal analysis, which shall take immediate 737
effect. 738

An order issued under division (I)(4) of this section shall 739
prevent the rule-making agency from instituting or continuing 740

proceedings to adopt any version of the proposed rule, amendment, 741
rescission, or part thereof until the rule-making agency revises 742
the rule summary and fiscal analysis and refiles it in electronic 743
form with the joint committee along with the proposed rule, 744
amendment, rescission, or part thereof. If the joint committee 745
finds the rule summary and fiscal analysis to be complete and 746
accurate, the joint committee shall issue a new order noting that 747
the rule-making agency has revised and refiled a complete and 748
accurate rule summary and fiscal analysis. The joint committee 749
shall send in electronic form to the rule-making agency, the 750
secretary of state, and the director of the legislative service 751
commission a certified text of this new order. The secretary of 752
state and the director of the legislative service commission shall 753
each link this order to the proposed rule, amendment, rescission, 754
or part thereof. The rule-making agency may then proceed to adopt 755
in accordance with division (D) of this section, or to file in 756
accordance with division (B)(1) of section 111.15 of the Revised 757
Code, the proposed rule, amendment, rescission, or part thereof 758
that was subject to the finding and order under division (I)(4) of 759
this section. If the joint committee determines that the revised 760
rule summary and fiscal analysis is still inaccurate or 761
incomplete, the joint committee shall recommend the adoption of a 762
concurrent resolution in accordance with division (I)(1) of this 763
section. 764

Sec. 121.25. As used in this section and in sections 121.251, 765
121.252, 121.253, 121.254, 121.255, 121.256, and 121.257 of the 766
Revised Code: 767

(A) "Rule" means the intended enactment of a new rule or the 768
intended amendment or rescission of an existing rule. 769

(B) "Rule-making agency" has the same meaning as in division 770
(I) of section 119.01 of the Revised Code. 771

(C) "Small business" means an independently owned and operated business entity, including its affiliates, having fewer than five hundred employees. 772
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Sec. 121.251. If a rule-making agency intends to adopt a rule on or after January 1, 2010, that, if adopted, may have any adverse impact on small businesses, the rule-making agency shall comply with sections 121.252 to 121.256 of the Revised Code before filing the rule under division (D) of section 111.15 or divisions (B) and (H) of section 119.03 of the Revised Code. The duty defined in this paragraph first applies with regard to the original version of a rule and then with regard to each revised version of the rule. 775
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Sections 121.252 to 121.256 of the Revised Code do not apply to an emergency rule adopted under division (B)(2) of section 111.15 or division (F) of section 119.03 of the Revised Code. But sections 121.252 to 121.256 of the Revised Code apply to a nonemergency rule that is intended to be filed under division (B)(1) of section 111.15 or divisions (B) and (H) of section 119.03 of the Revised Code to replace an emergency rule that expires under division (B)(2) of section 111.15 or division (F) of section 119.03 of the Revised Code. 784
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Sec. 121.252. The rule-making agency shall prepare a full text of the rule and shall do both of the following: 793
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(A) Conduct a cost-benefit analysis, weighing the following factors, to determine whether the cost of the rule to small businesses outweighs the benefit of the rule: 795
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(1) An identification and estimate of the number of small businesses that may be subject to the rule; 798
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(2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the rule, 800
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including the type of technical or professional skills necessary 802
for preparation of any report or record required by the rule; 803

(3) A statement of the probable effect of the rule on the 804
impacted small businesses identified under division (A)(1) of this 805
section; 806

(4) A description of any less intrusive or less costly 807
alternative methods of achieving the purpose of the rule; and 808

(5) Any other information the rule-making agency considers 809
necessary to fully explain its cost-benefit analysis regarding the 810
rule. 811

(B) Conduct a regulatory flexibility analysis of how each of 812
the following methods might reduce any adverse impact the rule may 813
have on small businesses: 814

(1) The establishment of less stringent compliance or 815
reporting requirements for small businesses; 816

(2) The establishment of less stringent schedules or 817
deadlines for compliance or reporting requirements for small 818
businesses; 819

(3) The consolidation or simplification of compliance or 820
reporting requirements for small businesses; 821

(4) The establishment of performance standards for small 822
businesses to replace design or operational standards required in 823
the rule; and 824

(5) The exemption of small businesses from any or all of the 825
rule's requirements. 826

Sec. 121.253. (A) The rule-making agency shall incorporate 827
into the rule features the cost-benefit analysis indicates will 828
reduce the cost and increase the benefit of the rule to small 829
businesses, and features the regulatory flexibility analysis 830

indicates will reduce any adverse impact the rule may have on 831
small businesses. In both cases, the rule-making agency shall 832
incorporate features into the rule only if they are feasible and 833
not if doing so would be contrary to the statutory objectives that 834
are the basis for the rule. 835

(B) The rule-making agency shall prepare two reports as 836
follows: 837

(1) A cost-benefit report that describes the results of the 838
cost-benefit analysis, that describes any features incorporated 839
into the rule as a result of the cost-benefit analysis, and that 840
explains how those features reduce the cost and increase the 841
benefit of the rule to small businesses. 842

(2) A regulatory flexibility report that describes the 843
results of the regulatory flexibility analysis, that describes any 844
features incorporated into the rule as a result of the regulatory 845
flexibility analysis, and that explains how those features reduce 846
any adverse impact the rule may have on small businesses. 847

The rule-making agency shall include any supporting 848
documentation for either analysis in an appendix to its report of 849
the analysis unless the documentation is otherwise incorporated 850
into the report. 851

Sec. 121.254. The rule-making agency shall file all of the 852
following in electronic form with the Ohio small business 853
ombudsperson: 854

(A) The full text of the rule; 855

(B) The cost-benefit report; and 856

(C) The regulatory flexibility report. 857

Sec. 121.255. (A) Within seven days after receipt of a filing 858
under section 121.254 of the Revised Code, the Ohio small business 859

ombudsperson shall cause all of the following to be published in 860
the register of Ohio for a period of thirty days: 861

(1) The full text of the rule filed under that section; 862

(2) The cost-benefit report; 863

(3) The regulatory flexibility report; and 864

(4) A notice informing persons that, during the thirty-day 865
period, they may comment to the ombudsperson concerning any 866
adverse impact the rule may have on small businesses. The notice 867
shall explain how persons may communicate comments to the 868
ombudsperson. 869

(B) During the period beginning on the day notice of the 870
right to comment is first published in the register of Ohio and 871
ending thirty days thereafter, any person may comment to the 872
ombudsperson concerning any adverse impact the rule may have on 873
small businesses. The ombudsperson shall establish and maintain, 874
or participate in, a web site having features that enable persons 875
to comment electronically. And the ombudsperson shall establish a 876
toll-free telephone number persons may call to make comments. The 877
telephone answering point shall be equipped to record comments 878
that are called in. 879

(C)(1) Not later than three days after the day the comment 880
period closes, the ombudsperson shall collate and review comments 881
that are received with regard to a rule, and shall compile them in 882
a report that describes in detail the substance of the comments 883
and, in particular, any objections to the rule. 884

(2) The ombudsperson shall forthwith cause the report to be 885
published in the register of Ohio and shall file the report in 886
electronic form with the rule-making agency that filed the rule 887
and with the small business regulatory review board. At the same 888
time, the ombudsperson shall file in electronic form with the 889
board the full text of the rule, the cost-benefit report, and the 890

regulatory flexibility report. 891

(3) The ombudsperson may appear before the joint committee on 892
agency rule review and testify concerning a rule-making agency's 893
compliance with sections 121.252, 121.253, and 121.254 of the 894
Revised Code. 895

Sec. 121.256. (A)(1) Within thirty days after receiving a 896
report from the Ohio small business ombudsperson, the small 897
business regulatory review board may hold a meeting at which it 898
shall review the report, the rule that is the subject of the 899
report, the cost-benefit report, and the regulatory flexibility 900
report, and shall determine whether the rule-making agency that 901
filed the rule has complied with sections 121.252, 121.253, and 902
121.254 of the Revised Code. 903

(2) The board may conduct a public hearing on the rule, at 904
which any person having an interest in the rule may appear and 905
offer comments on, or objections to, the rule insofar as it may 906
have any adverse impact on small businesses. The board shall cause 907
notice of such a public hearing to be published in the register of 908
Ohio at least seven days before the date set for the hearing. In 909
the notice, the board shall state the date and time when, and the 910
place where, the public hearing will be held. 911

(B)(1) If the board finds that a rule-making agency, in 913
regard to a rule, has failed to comply with section 121.252, 914
121.253, or 121.254 of the Revised Code, the board shall issue in 915
writing a determination of noncompliance that states the 916
determination and explains why the rule fails to comply with those 917
sections. The board may include in the determination of 918
noncompliance suggested changes in the rule that will bring the 919
rule into compliance with sections 121.252 and 121.253 of the 920
Revised Code. 921

(2) If the board finds that a rule-making agency, in regard to a rule, complied with sections 121.252, 121.253, and 121.254 of the Revised Code, the board shall issue in writing a determination of compliance that states such determination. 922
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(C)(1) The board shall file its determination in electronic form with the rule-making agency and shall cause its determination to be published in the register of Ohio. 926
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(2) If the rule-making agency proceeds to file the rule under division (B)(1) of section 111.15 or divisions (B) and (H) of section 119.03 of the Revised Code, the rule-making agency shall file with the joint committee on agency rule review the board's determination, the full text of the rule, the ombudsperson's report, the cost-benefit report, and the regulatory flexibility report. 929
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(D) If the board, within thirty days after receiving the ombudsperson's report, does not issue a determination to the rule-making agency, the board, in electronic form, shall return to the rule-making agency the full text of the rule, the cost-benefit report, and the regulatory flexibility report. The board shall note on the rule that it has not issued a determination with regard to the rule. The rule-making agency then may proceed to file the rule under division (B)(1) of section 111.15 or divisions (B) and (H) of section 119.03 of the Revised Code, but only if the rule that is so filed is substantially similar to the rule that was filed with the ombudsperson. 936
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Sec. 121.257. There is hereby created the small business regulatory review board, consisting of five members appointed by the governor, two members appointed by the president of the senate, and two members appointed by the speaker of the house of representatives. Each member shall represent small business. 947
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The terms of office of all members of the board shall be for 952

three years, beginning on the first day of January and ending at 953
the close of business on the thirty-first day of December. A 954
vacancy on the board shall be filled in the same manner as the 955
initial appointment. Any member appointed to fill a vacancy 956
occurring prior to the expiration of the term for which the 957
member's predecessor was appointed shall hold office for the 958
remainder of the term. 959

The governor shall designate the chairperson of the board 960
from among the members appointed by the governor. The chairperson 961
shall appoint a secretary from among the board's members. 962

Five members of the board constitute a quorum, and the 963
affirmative vote of five members is necessary for any action taken 964
by the board. 965

Members of the board shall serve without compensation, but 966
shall be reimbursed for their necessary and actual expenses 967
incurred in the performance of their board duties. 968

Sec. 121.39. (A) As used in this section, "environmental 969
protection" means any of the following: 970

(1) Protection of human health or safety, biological 971
resources, or natural resources by preventing, reducing, or 972
remediating the pollution or degradation of air, land, or water 973
resources or by preventing or limiting the exposure of humans, 974
animals, or plants to pollution; 975

(2) Appropriation or regulation of privately owned property 976
to preserve air, land, or water resources in a natural state or to 977
wholly or partially restore them to a natural state; 978

(3) Regulation of the collection, management, treatment, 979
reduction, storage, or disposal of solid, hazardous, radioactive, 980
or other wastes; 981

(4) Plans or programs to promote or regulate the 982

conservation, recycling, or reuse of energy, materials, or wastes. 983

(B) Except as otherwise provided in division (E) of this 984
section, when proposed legislation dealing with environmental 985
protection or containing a component dealing with environmental 986
protection is referred to a committee of the general assembly, 987
other than a committee on rules or reference, the sponsor of the 988
legislation, at the time of the first hearing of the legislation 989
before the committee, shall submit to the members of the committee 990
a written statement identifying either the documentation that is 991
the basis of the legislation or the federal requirement or 992
requirements with which the legislation is intended to comply. If 993
the legislation is not based on documentation or has not been 994
introduced to comply with a federal requirement or requirements, 995
the written statement from the sponsor shall so indicate. 996

Also at the time of the first hearing of the legislation 997
before the committee, a statewide organization that represents 998
businesses in this state and that elects its board of directors 999
may submit to the members of the committee a written estimate of 1000
the costs to the regulated community in this state of complying 1001
with the legislation if it is enacted. 1002

At any hearing of the legislation before the committee, a 1003
representative of any state agency, environmental advocacy 1004
organization, or consumer advocacy organization or any private 1005
citizen may present documentation containing an estimate of the 1006
monetary and other costs to public health and safety and the 1007
environment and to consumers and residential utility customers, 1008
and the effects on property values, if the legislation is not 1009
enacted. 1010

(C) Until such time as the statement required under division 1011
(B) of this section is submitted to the committee to which 1012
proposed legislation dealing with environmental protection or 1013
containing a component dealing with environmental protection was 1014

referred, the legislation shall not be reported by that committee. 1015
This requirement does not apply if the component dealing with 1016
environmental protection is removed from the legislation or if 1017
two-thirds of the members of the committee vote in favor of a 1018
motion to report the proposed legislation. 1019

(D) Except as otherwise provided in division (E) of this 1020
section, prior to adopting a rule or an amendment proposed to a 1021
rule dealing with environmental protection or containing a 1022
component dealing with environmental protection, a state agency 1023
shall do all of the following: 1024

(1) Consult with organizations that represent political 1025
subdivisions, environmental interests, business interests, and 1026
other persons affected by the proposed rule or amendment; 1027

(2) Consider documentation relevant to the need for, the 1028
environmental benefits or consequences of, other benefits of, and 1029
the technological feasibility of the proposed rule or amendment; 1030

(3) Specifically identify whether the proposed rule or 1031
amendment is being adopted or amended to enable the state to 1032
obtain or maintain approval to administer and enforce a federal 1033
environmental law or to participate in a federal environmental 1034
program, whether the proposed rule or amendment is more stringent 1035
than its federal counterpart, and, if the proposed rule or 1036
amendment is more stringent, the rationale for not incorporating 1037
its federal counterpart; 1038

(4) Include with the proposed rule or amendment and the rule 1039
summary and fiscal analysis required under ~~sections 121.24 and~~ 1040
section 127.18 of the Revised Code, when they are filed with the 1041
joint committee on agency rule review in accordance with division 1042
(D) of section 111.15 or division (H) of section 119.03 of the 1043
Revised Code, one of the following in electronic form, as 1044
applicable: 1045

(a) The information identified under division (D)(3) of this section and, if the proposed rule or amendment is more stringent than its federal counterpart, as identified in that division, the documentation considered under division (D)(2) of this section;

(b) If an amendment proposed to a rule is being adopted or amended under a state statute that establishes standards with which the amendment shall comply, and the proposed amendment is more stringent than the rule that it is proposing to amend, the documentation considered under division (D)(2) of this section;

(c) If division (D)(4)(a) or (b) of this section is not applicable, the documentation considered under division (D)(2) of this section.

If the agency subsequently files a revision of such a proposed rule or amendment in accordance with division (D) of section 111.15 or division (H) of section 119.03 of the Revised Code, the revision shall be accompanied in electronic form by the applicable information or documentation.

Division (D) of this section does not apply to any emergency rule adopted under division (B)(2) of section 111.15 or division (F) of section 119.03 of the Revised Code, but does apply to any such rule that subsequently is adopted as a nonemergency rule under either of those divisions.

The information or documentation submitted under division (D)(4) of this section may be in the form of a summary or index of available knowledge or information and shall consist of or be based upon the best available generally accepted knowledge or information in the appropriate fields, as determined by the agency that prepared the documentation.

(E) The statement required under division (B) and the information or documentation required under division (D) of this section need not be prepared or submitted with regard to a

proposed statute or rule, or an amendment to a rule, if the 1077
statute, rule, or amendment is procedural or budgetary in nature, 1078
or governs the organization or operation of a state agency, and 1079
will not affect the substantive rights or obligations of any 1080
person other than a state agency or an employee or contractor of a 1081
state agency. 1082

(F) The insufficiency, incompleteness, or inadequacy of a 1083
statement, information, documentation, or a summary of information 1084
or documentation provided in accordance with division (B) or (D) 1085
of this section shall not be grounds for invalidation of any 1086
statute, rule, or amendment to a rule. 1087

(G) This section applies only to the following: 1088

(1) Legislation and components of legislation dealing with 1089
environmental protection that are introduced in the general 1090
assembly after March 5, 1996; 1091

(2) Rules and rule amendments dealing with environmental 1092
protection that are filed with the joint committee on agency rule 1093
review in accordance with division (D) of section 111.15 or 1094
division (H) of section 119.03 of the Revised Code after March 5, 1095
1996. 1096

Sec. 122.08. (A) There is hereby created within the 1097
department of development an office to be known as the office of 1098
small business. The office shall be under the supervision of a 1099
manager appointed by the director of development. The manager 1100
shall be known as the Ohio small business ombudsperson. 1101

(B) The office and ombudsperson shall do all of the 1102
following: 1103

(1) Act as liaison between the small business community and 1104
state governmental agencies; 1105

(2) Furnish information and technical assistance to persons 1106

and small businesses concerning the establishment and maintenance 1107
of a small business, and concerning state laws and rules relevant 1108
to the operation of a small business. In conjunction with these 1109
duties, the office shall keep a record of all state agency rules 1110
affecting ~~individuals~~, small businesses, ~~or small organizations~~, 1111
as defined in section ~~121.24~~ 121.25 of the Revised Code, and the 1112
ombudsperson may testify before the joint committee on agency rule 1113
review concerning any proposed rule affecting ~~individuals~~, small 1114
businesses, ~~or small organizations~~. 1115

(3) Prepare and publish the small business register under 1116
section 122.081 of the Revised Code; 1117

(4) Receive complaints from small businesses concerning 1118
governmental activity, compile and analyze those complaints, and 1119
periodically make recommendations to the governor and the general 1120
assembly on changes in state laws or agency rules needed to 1121
eliminate burdensome and unproductive governmental regulation to 1122
improve the economic climate within which small businesses 1123
operate; 1124

(5) Receive complaints or questions from small businesses and 1125
direct those businesses to the appropriate governmental agency. 1126
If, within a reasonable period of time, a complaint is not 1127
satisfactorily resolved or a question is not satisfactorily 1128
answered, the office shall, on behalf of the small business, make 1129
every effort to secure a satisfactory result. For this purpose, 1130
the office may consult with any state governmental agency and may 1131
make any suggestion or request that seems appropriate. 1132

(6) Utilize, to the maximum extent possible, the printed and 1133
electronic media to disseminate information of current concern and 1134
interest to the small business community and to make known to 1135
small businesses the services available through the office. The 1136
office shall publish such books, pamphlets, and other printed 1137
materials, and shall participate in such trade association 1138

meetings, conventions, fairs, and other meetings involving the 1139
small business community, as the ~~manager~~ ombudsperson considers 1140
appropriate. 1141

(7) Prepare for inclusion in the department of development's 1142
annual report to the governor and general assembly, a description 1143
of the activities of the office and a report of the number of 1144
rules affecting ~~individuals, small businesses, and small~~ 1145
~~organizations~~ that were filed with the office ombudsperson under 1146
~~division (B)(2) of section 121.24~~ 121.254 of the Revised Code, 1147
during the preceding calendar year; 1148

(8) Operate the Ohio first-stop business connection to assist 1149
individuals in identifying and preparing applications for business 1150
licenses, permits, and certificates and to serve as the central 1151
public distributor for all forms, applications, and other 1152
information related to business licensing. Each state agency, 1153
board, and commission shall cooperate in providing assistance, 1154
information, and materials to enable the connection to perform its 1155
duties under this division. 1156

(9) Comply with section 121.255 of the Revised Code; 1157

(10) Maintain and publicize a toll-free telephone number Ohio 1158
small businesses may call to reach the ombudsperson, who shall 1159
assist those small businesses in complying with state regulatory 1160
requirements; 1161

(11) Interface with other agencies to facilitate the 1162
resolution of small business regulatory issues; 1163

(12) Provide all necessary staff and support for the small 1164
business regulatory review board; 1165

(13) Interface with small businesses in an effort to create 1166
and retain jobs in this state; 1167

(14) Conduct an annual regulatory compliance audit to 1168

determine which, if any, rules pertaining to small businesses 1169
require duplicative reporting or recordkeeping of the same or 1170
substantially similar information for multiple regulatory 1171
entities; 1172

(15) Conduct an annual assessment that identifies which rules 1173
have any adverse impact on small businesses; and 1174

(16) Prepare an annual report and submit it to the governor 1175
and the general assembly on or before the first day of January 1176
each year. 1177

The report shall contain the results of the audit conducted 1178
under division (B)(14) of this section, and shall make 1179
recommendations on how to minimize any adverse impact of rules 1180
identified under division (B)(15) of this section. 1181

(C) The office ~~may~~ shall, upon the request of a state agency, 1182
assist the agency with the preparation of any rule that will 1183
affect ~~individuals, small businesses, or small organizations.~~ The 1184
office shall train rule-making agency personnel on methods to be 1185
used under sections 121.252 and 121.253 of the Revised Code to 1186
conduct a cost-benefit analysis and prepare a cost-benefit report, 1187
and to conduct a regulatory flexibility analysis and prepare a 1188
regulatory flexibility report. 1189

(D) The director of development shall assign employees and 1190
furnish equipment and supplies to the office as the director 1191
considers necessary for the proper performance of the duties 1192
assigned to the office. 1193

Sec. 122.081. (A) The office of small business in the 1194
department of development shall prepare and publish a "small 1195
business register" or contract with any person as provided in this 1196
section to prepare and publish the register. The small business 1197
register shall contain the following information regarding each 1198

~~proposed~~ rule filed with the ~~office of small business~~ Ohio small 1199
business ombudsperson under ~~division (B)(2) of section 121.24~~ 1200
121.254 of the Revised Code: 1201

(1) The proposed title and administrative code rule number of 1202
the ~~proposed~~ rule; 1203

(2) A brief summary of the ~~proposed~~ rule; 1204

(3) The date on which the ~~proposed~~ rule was filed with the 1205
~~office of small business under division (B)(2) of section 121.24~~ 1206
~~of the Revised Code~~ ombudsperson; and 1207

(4) The name, address, and telephone number of the individual 1208
or office within the agency that ~~proposed~~ filed the rule ~~who has~~ 1209
~~been designated as being responsible for complying with division~~ 1210
~~(E) of section 121.24 of the Revised Code with regard to the~~ 1211
~~proposed rule.~~ 1212

(B) The small business register shall be published on a 1213
weekly basis. The information required under division (A) of this 1214
section shall be published in the register no later than two weeks 1215
after the ~~proposed~~ rule to which the information relates is filed 1216
with the ~~office of small business~~ ombudsperson under ~~division~~ 1217
~~(B)(2) of section 121.24~~ 121.254 of the Revised Code. The office 1218
of small business shall furnish the small business register, on a 1219
single copy or subscription basis, to any person who requests it 1220
and pays a single copy price or subscription rate fixed by the 1221
office. ~~The office shall furnish the chairmen of the standing~~ 1222
~~committees of the senate and house of representatives having~~ 1223
~~jurisdiction over individuals, small businesses, and small~~ 1224
~~organizations with free subscriptions to the small business~~ 1225
~~register.~~ 1226

(C) Upon the request of the office of small business, the 1227
director of administrative services shall, in accordance with the 1228
competitive selection procedure of Chapter 125. of the Revised 1229

Code, let a contract for the compilation, printing, and 1230
distribution of the small business register. 1231

(D) The office of small business shall adopt, and may amend 1232
or rescind, in accordance with Chapter 119. of the Revised Code, 1233
such rules as are necessary to enable it to properly carry out 1234
this section. 1235

Sec. 122.94. The director of the department of development 1236
shall: 1237

(A) Promulgate rules in accordance with Chapter 119. of the 1238
Revised Code for the conduct of the minority business development 1239
division's business and for carrying out the purposes of sections 1240
122.92 to 122.94 of the Revised Code; 1241

(B) Prepare an annual report to the governor and the general 1242
assembly on or before the first day of February of its activities 1243
for the preceding calendar year. ~~In addition to the submissions~~ 1244
~~required by section 101.68 of the Revised Code, the director shall~~ 1245
~~submit copies of the annual report to the chairmen of the standing~~ 1246
~~committees of the senate and house of representatives having~~ 1247
~~jurisdiction over individuals, small businesses, and small~~ 1248
~~organizations, as those terms are defined in section 121.24 of the~~ 1249
~~Revised Code.~~ 1250

Section 2. That existing sections 101.35, 103.0511, 111.15, 1251
117.20, 119.03, 121.39, 122.08, 122.081, and 122.94 of the Revised 1252
Code are hereby repealed. 1253

Section 3. That sections 119.031 and 121.24 of the Revised 1254
Code are hereby repealed, effective January 1, 2010. 1255

Section 4. The several appointing authorities shall make 1256
initial appointments to the Small Business Regulatory Review Board 1257

for terms commencing on January 1, 2010.

1258