

As Introduced

**128th General Assembly
Regular Session
2009-2010**

S. B. No. 3

Senator Faber

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A B I L L

To amend sections 103.0511, 111.15, 117.20, 119.03, 1
119.031, 121.39, 122.08, 122.081, 122.94, 124.04, 2
and 1710.02, to enact sections 121.021, 121.25, 3
121.251 to 121.255, and 124.95, and to repeal 4
section 121.24 of the Revised Code to require a 5
rule-making agency to prepare a cost-benefit 6
report for, and regulatory flexibility analysis 7
of, rules that may have any adverse impact on 8
small businesses and submit them to the new Ohio 9
Small Business Ombudsperson in the Office of Small 10
Business, to create the Small Business Regulatory 11
Review Board to review objections to those rules 12
and make recommendations to the Joint Committee on 13
Agency Rule Review regarding the rules, to require 14
the Ombudsperson annually to submit a rule impact 15
report to the Governor and General Assembly, to 16
promote improved customer service in state 17
agencies, and to require the Director of 18
Administrative Services to establish customer 19
service performance standards for nonelected 20
officers and employees of state agencies. 21
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 119.03, 122.08, and 124.04 be 23
amended and sections 121.021, 121.25, 121.251, 121.252, 121.253, 24
121.254, 121.255, and 124.95 of the Revised Code be enacted to 25
read as follows: 26

Sec. 119.03. In the adoption, amendment, or rescission of any 27
rule, an agency shall comply with the following procedure: 28

(A) Reasonable public notice shall be given in the register 29
of Ohio at least thirty days prior to the date set for a hearing, 30
in the form the agency determines. The agency shall file copies of 31
the public notice under division (B) of this section. (The agency 32
gives public notice in the register of Ohio when the public notice 33
is published in the register under that division.) 34

The public notice shall include: 35

(1) A statement of the agency's intention to consider 36
adopting, amending, or rescinding a rule; 37

(2) A synopsis of the proposed rule, amendment, or rule to be 38
rescinded or a general statement of the subject matter to which 39
the proposed rule, amendment, or rescission relates; 40

(3) A statement of the reason or purpose for adopting, 41
amending, or rescinding the rule; 42

(4) The date, time, and place of a hearing on the proposed 43
action, which shall be not earlier than the thirty-first nor later 44
than the fortieth day after the proposed rule, amendment, or 45
rescission is filed under division (B) of this section. 46

In addition to public notice given in the register of Ohio, 47
the agency may give whatever other notice it reasonably considers 48
necessary to ensure notice constructively is given to all persons 49
who are subject to or affected by the proposed rule, amendment, or 50
rescission. 51

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

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

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

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

If the agency files a substantive revision in the text of the proposed rule, amendment, or rescission under division (H) of this

section, it shall also promptly file the full text of the proposed 84
rule, amendment, or rescission in its revised form in electronic 85
form with the secretary of state and with the director of the 86
legislative service commission. 87

The agency shall file the rule summary and fiscal analysis 88
prepared under section ~~121.24 or~~ 127.18 of the Revised Code, ~~or~~ 89
~~both~~, in electronic form along with a proposed rule, amendment, or 90
rescission or proposed rule, amendment, or rescission in revised 91
form that is filed with the secretary of state or the director of 92
the legislative service commission. 93

The director of the legislative service commission shall 94
publish in the register of Ohio the full text of the original and 95
each revised version of a proposed rule, amendment, or rescission; 96
the full text of a public notice; and the full text of a rule 97
summary and fiscal analysis that is filed with the director under 98
this division. 99

(C) On the date and at the time and place designated in the 100
notice, the agency shall conduct a public hearing at which any 101
person affected by the proposed action of the agency may appear 102
and be heard in person, by the person's attorney, or both, may 103
present the person's position, arguments, or contentions, orally 104
or in writing, offer and examine witnesses, and present evidence 105
tending to show that the proposed rule, amendment, or rescission, 106
if adopted or effectuated, will be unreasonable or unlawful. An 107
agency may permit persons affected by the proposed rule, 108
amendment, or rescission to present their positions, arguments, or 109
contentions in writing, not only at the hearing, but also for a 110
reasonable period before, after, or both before and after the 111
hearing. A person who presents a position or arguments or 112
contentions in writing before or after the hearing is not required 113
to appear at the hearing. 114

At the hearing, the testimony shall be recorded. Such record 115

shall be made at the expense of the agency. The agency is required 116
to transcribe a record that is not sight readable only if a person 117
requests transcription of all or part of the record and agrees to 118
reimburse the agency for the costs of the transcription. An agency 119
may require the person to pay in advance all or part of the cost 120
of the transcription. 121

In any hearing under this section the agency may administer 122
oaths or affirmations. 123

(D) After complying with divisions (A), (B), (C), and (H) of 124
this section, and when the time for legislative review and 125
invalidation under division (I) of this section has expired, the 126
agency may issue an order adopting the proposed rule or the 127
proposed amendment or rescission of the rule, consistent with the 128
synopsis or general statement included in the public notice. At 129
that time the agency shall designate the effective date of the 130
rule, amendment, or rescission, which shall not be earlier than 131
the tenth day after the rule, amendment, or rescission has been 132
filed in its final form as provided in section 119.04 of the 133
Revised Code. 134

(E) Prior to the effective date of a rule, amendment, or 135
rescission, the agency shall make a reasonable effort to inform 136
those affected by the rule, amendment, or rescission and to have 137
available for distribution to those requesting it the full text of 138
the rule as adopted or as amended. 139

(F) If the governor, upon the request of an agency, 140
determines that an emergency requires the immediate adoption, 141
amendment, or rescission of a rule, the governor shall issue an 142
order, the text of which shall be filed in electronic form with 143
the agency, the secretary of state, the director of the 144
legislative service commission, and the joint committee on agency 145
rule review, that the procedure prescribed by this section with 146
respect to the adoption, amendment, or rescission of a specified 147

rule is suspended. The agency may then adopt immediately the 148
emergency rule, amendment, or rescission and it becomes effective 149
on the date the rule, amendment, or rescission, in final form and 150
in compliance with division (A)(2) of section 119.04 of the 151
Revised Code, ~~are~~ is filed in electronic form with the secretary 152
of state, the director of the legislative service commission, and 153
the joint committee on agency rule review. If all filings are not 154
completed on the same day, the emergency rule, amendment, or 155
rescission shall be effective on the day on which the latest 156
filing is completed. The director shall publish the full text of 157
the emergency rule, amendment, or rescission in the register of 158
Ohio. 159

The emergency rule, amendment, or rescission shall become 160
invalid at the end of the ninetieth day it is in effect. Prior to 161
that date the agency may adopt the emergency rule, amendment, or 162
rescission as a nonemergency rule, amendment, or rescission by 163
complying with the procedure prescribed by this section for the 164
adoption, amendment, and rescission of nonemergency rules. The 165
agency shall not use the procedure of this division to readopt the 166
emergency rule, amendment, or rescission so that, upon the 167
emergency rule, amendment, or rescission becoming invalid under 168
this division, the emergency rule, amendment, or rescission will 169
continue in effect without interruption for another ninety-day 170
period, except when division (I)(2)(a) of this section prevents 171
the agency from adopting the emergency rule, amendment, or 172
rescission as a nonemergency rule, amendment, or rescission within 173
the ninety-day period. 174

This division does not apply to the adoption of any emergency 175
rule, amendment, or rescission by the tax commissioner under 176
division (C)(2) of section 5117.02 of the Revised Code. 177

(G) Rules adopted by an authority within the department of 178
job and family services for the administration or enforcement of 179

Chapter 4141. of the Revised Code or of the department of taxation 180
shall be effective without a hearing as provided by this section 181
if the statutes pertaining to such agency specifically give a 182
right of appeal to the board of tax appeals or to a higher 183
authority within the agency or to a court, and also give the 184
appellant a right to a hearing on such appeal. This division does 185
not apply to the adoption of any rule, amendment, or rescission by 186
the tax commissioner under division (C)(1) or (2) of section 187
5117.02 of the Revised Code, or deny the right to file an action 188
for declaratory judgment as provided in Chapter 2721. of the 189
Revised Code from the decision of the board of tax appeals or of 190
the higher authority within such agency. 191

(H) When any agency files a proposed rule, amendment, or 192
rescission under division (B) of this section, it shall also file 193
in electronic form with the joint committee on agency rule review 194
the full text of the proposed rule, amendment, or rule to be 195
rescinded in the same form and the public notice required under 196
division (A) of this section. (If in compliance with this division 197
an agency files more than one proposed rule, amendment, or 198
rescission at the same time, and has given a public notice under 199
division (A) of this section that applies to more than one of the 200
proposed rules, amendments, or rescissions, the agency shall file 201
only one notice with the joint committee for all of the proposed 202
rules, amendments, or rescissions to which the notice applies.) If 203
the agency makes a substantive revision in a proposed rule, 204
amendment, or rescission after it is filed with the joint 205
committee, the agency shall promptly file the full text of the 206
proposed rule, amendment, or rescission in its revised form in 207
electronic form with the joint committee. The latest version of a 208
proposed rule, amendment, or rescission as filed with the joint 209
committee supersedes each earlier version of the text of the same 210
proposed rule, amendment, or rescission. An agency shall file the 211
rule summary and fiscal analysis prepared under section ~~121.24~~ or 212

127.18 of the Revised Code, ~~or both~~, in electronic form along with 213
a proposed rule, amendment, or rescission, and along with a 214
proposed rule, amendment, or rescission in revised form, that is 215
filed under this division. 216

This division does not apply to: 217

(1) An emergency rule, amendment, or rescission; 218

(2) Any proposed rule, amendment, or rescission that must be 219
adopted verbatim by an agency pursuant to federal law or rule, to 220
become effective within sixty days of adoption, in order to 221
continue the operation of a federally reimbursed program in this 222
state, so long as the proposed rule contains both of the 223
following: 224

(a) A statement that it is proposed for the purpose of 225
complying with a federal law or rule; 226

(b) A citation to the federal law or rule that requires 227
verbatim compliance. 228

If a rule or amendment is exempt from legislative review 229
under division (H)(2) of this section, and if the federal law or 230
rule pursuant to which the rule or amendment was adopted expires, 231
is repealed or rescinded, or otherwise terminates, the rule or 232
amendment, or its rescission, is thereafter subject to legislative 233
review under division (H) of this section. 234

(I)(1) The joint committee on agency rule review may 235
recommend the adoption of a concurrent resolution invalidating a 236
proposed rule, amendment, rescission, or part thereof if it finds 237
any of the following: 238

(a) That the rule-making agency has exceeded the scope of its 239
statutory authority in proposing the rule, amendment, or 240
rescission; 241

(b) That the proposed rule, amendment, or rescission 242

conflicts with another rule, amendment, or rescission adopted by 243
the same or a different rule-making agency; 244

(c) That the proposed rule, amendment, or rescission 245
conflicts with the legislative intent in enacting the statute 246
under which the rule-making agency proposed the rule, amendment, 247
or rescission; 248

(d) That the rule-making agency has failed to prepare a 249
complete and accurate rule summary and fiscal analysis of the 250
proposed rule, amendment, or rescission as required by section 251
~~121.24 or~~ 127.18 of the Revised Code, ~~or both, or that;~~ 252

(e) That the proposed rule, amendment, or rescission 253
incorporates a text or other material by reference and either the 254
rule-making agency has failed to file the text or other material 255
incorporated by reference as required by section 121.73 of the 256
Revised Code or, in the case of a proposed rule or amendment, the 257
incorporation by reference fails to meet the standards stated in 258
section 121.72, 121.75, or 121.76 of the Revised Code; or 259

(f) That the rule-making agency has failed to comply with 260
section 121.251 or 121.252 of the Revised Code. 261

The joint committee shall not hold its public hearing on a 262
proposed rule, amendment, or rescission earlier than the 263
forty-first day after the original version of the proposed rule, 264
amendment, or rescission was filed with the joint committee. 265

The house of representatives and senate may adopt a 266
concurrent resolution invalidating a proposed rule, amendment, 267
rescission, or part thereof. The concurrent resolution shall state 268
which of the specific rules, amendments, rescissions, or parts 269
thereof are invalidated. A concurrent resolution invalidating a 270
proposed rule, amendment, or rescission shall be adopted not later 271
than the sixty-fifth day after the original version of the text of 272
the proposed rule, amendment, or rescission is filed with the 273

joint committee, except that if more than thirty-five days after 274
the original version is filed the rule-making agency either files 275
a revised version of the text of the proposed rule, amendment, or 276
rescission, or revises the rule summary and fiscal analysis in 277
accordance with division (I)(4) of this section, a concurrent 278
resolution invalidating the proposed rule, amendment, or 279
rescission shall be adopted not later than the thirtieth day after 280
the revised version of the proposed rule or rule summary and 281
fiscal analysis is filed. If, after the joint committee on agency 282
rule review recommends the adoption of a concurrent resolution 283
invalidating a proposed rule, amendment, rescission, or part 284
thereof, the house of representatives or senate does not, within 285
the time remaining for adoption of the concurrent resolution, hold 286
five floor sessions at which its journal records a roll call vote 287
disclosing a sufficient number of members in attendance to pass a 288
bill, the time within which that house may adopt the concurrent 289
resolution is extended until it has held five such floor sessions. 290

Within five days after the adoption of a concurrent 291
resolution invalidating a proposed rule, amendment, rescission, or 292
part thereof, the clerk of the senate shall send the rule-making 293
agency, the secretary of state, and the director of the 294
legislative service commission in electronic form a certified text 295
of the resolution together with a certification stating the date 296
on which the resolution takes effect. The secretary of state and 297
the director of the legislative service commission shall each note 298
the invalidity of the proposed rule, amendment, rescission, or 299
part thereof, and shall each remove the invalid proposed rule, 300
amendment, rescission, or part thereof from the file of proposed 301
rules. The rule-making agency shall not proceed to adopt in 302
accordance with division (D) of this section, or to file in 303
accordance with division (B)(1) of section 111.15 of the Revised 304
Code, any version of a proposed rule, amendment, rescission, or 305
part thereof that has been invalidated by concurrent resolution. 306

Unless the house of representatives and senate adopt a 307
concurrent resolution invalidating a proposed rule, amendment, 308
rescission, or part thereof within the time specified by this 309
division, the rule-making agency may proceed to adopt in 310
accordance with division (D) of this section, or to file in 311
accordance with division (B)(1) of section 111.15 of the Revised 312
Code, the latest version of the proposed rule, amendment, or 313
rescission as filed with the joint committee. If by concurrent 314
resolution certain of the rules, amendments, rescissions, or parts 315
thereof are specifically invalidated, the rule-making agency may 316
proceed to adopt, in accordance with division (D) of this section, 317
or to file in accordance with division (B)(1) of section 111.15 of 318
the Revised Code, the latest version of the proposed rules, 319
amendments, rescissions, or parts thereof as filed with the joint 320
committee that are not specifically invalidated. The rule-making 321
agency may not revise or amend any proposed rule, amendment, 322
rescission, or part thereof that has not been invalidated except 323
as provided in this chapter or in section 111.15 of the Revised 324
Code. 325

(2)(a) A proposed rule, amendment, or rescission that is 326
filed with the joint committee under division (H) of this section 327
or division (D) of section 111.15 of the Revised Code shall be 328
carried over for legislative review to the next succeeding regular 329
session of the general assembly if the original or any revised 330
version of the proposed rule, amendment, or rescission is filed 331
with the joint committee on or after the first day of December of 332
any year. 333

(b) The latest version of any proposed rule, amendment, or 334
rescission that is subject to division (I)(2)(a) of this section, 335
as filed with the joint committee, is subject to legislative 336
review and invalidation in the next succeeding regular session of 337
the general assembly in the same manner as if it were the original 338

version of a proposed rule, amendment, or rescission that had been 339
filed with the joint committee for the first time on the first day 340
of the session. A rule-making agency shall not adopt in accordance 341
with division (D) of this section, or file in accordance with 342
division (B)(1) of section 111.15 of the Revised Code, any version 343
of a proposed rule, amendment, or rescission that is subject to 344
division (I)(2)(a) of this section until the time for legislative 345
review and invalidation, as contemplated by division (I)(2)(b) of 346
this section, has expired. 347

(3) Invalidation of any version of a proposed rule, 348
amendment, rescission, or part thereof by concurrent resolution 349
shall prevent the rule-making agency from instituting or 350
continuing proceedings to adopt any version of the same proposed 351
rule, amendment, rescission, or part thereof for the duration of 352
the general assembly that invalidated the proposed rule, 353
amendment, rescission, or part thereof unless the same general 354
assembly adopts a concurrent resolution permitting the rule-making 355
agency to institute or continue such proceedings. 356

The failure of the general assembly to invalidate a proposed 357
rule, amendment, rescission, or part thereof under this section 358
shall not be construed as a ratification of the lawfulness or 359
reasonableness of the proposed rule, amendment, rescission, or any 360
part thereof or of the validity of the procedure by which the 361
proposed rule, amendment, rescission, or any part thereof was 362
proposed or adopted. 363

(4) In lieu of recommending a concurrent resolution to 364
invalidate a proposed rule, amendment, rescission, or part thereof 365
because the rule-making agency has failed to prepare a complete 366
and accurate fiscal analysis, the joint committee on agency rule 367
review may issue, on a one-time basis, for rules, amendments, 368
rescissions, or parts thereof that have a fiscal effect on school 369
districts, counties, townships, or municipal corporations, a 370

finding that the rule summary and fiscal analysis is incomplete or 371
inaccurate and order the rule-making agency to revise the rule 372
summary and fiscal analysis and refile it with the proposed rule, 373
amendment, rescission, or part thereof. If an emergency rule is 374
filed as a nonemergency rule before the end of the ninetieth day 375
of the emergency rule's effectiveness, and the joint committee 376
issues a finding and orders the rule-making agency to refile under 377
division (I)(4) of this section, the governor may also issue an 378
order stating that the emergency rule shall remain in effect for 379
an additional sixty days after the ninetieth day of the emergency 380
rule's effectiveness. The governor's orders shall be filed in 381
accordance with division (F) of this section. The joint committee 382
shall send in electronic form to the rule-making agency, the 383
secretary of state, and the director of the legislative service 384
commission a certified text of the finding and order to revise the 385
rule summary and fiscal analysis, which shall take immediate 386
effect. 387

An order issued under division (I)(4) of this section shall 388
prevent the rule-making agency from instituting or continuing 389
proceedings to adopt any version of the proposed rule, amendment, 390
rescission, or part thereof until the rule-making agency revises 391
the rule summary and fiscal analysis and refiles it in electronic 392
form with the joint committee along with the proposed rule, 393
amendment, rescission, or part thereof. If the joint committee 394
finds the rule summary and fiscal analysis to be complete and 395
accurate, the joint committee shall issue a new order noting that 396
the rule-making agency has revised and refiled a complete and 397
accurate rule summary and fiscal analysis. The joint committee 398
shall send in electronic form to the rule-making agency, the 399
secretary of state, and the director of the legislative service 400
commission a certified text of this new order. The secretary of 401
state and the director of the legislative service commission shall 402
each link this order to the proposed rule, amendment, rescission, 403

or part thereof. The rule-making agency may then proceed to adopt 404
in accordance with division (D) of this section, or to file in 405
accordance with division (B)(1) of section 111.15 of the Revised 406
Code, the proposed rule, amendment, rescission, or part thereof 407
that was subject to the finding and order under division (I)(4) of 408
this section. If the joint committee determines that the revised 409
rule summary and fiscal analysis is still inaccurate or 410
incomplete, the joint committee shall recommend the adoption of a 411
concurrent resolution in accordance with division (I)(1) of this 412
section. 413

Sec. 121.021. It is the policy of the state to improve 414
customer service in state agencies. Each state agency shall 415
emphasize improved customer service, efficiency, and productivity 416
in employee orientation, personnel training, and employee 417
performance reviews. 418

Sec. 121.25. As used in this section and in sections 121.251, 419
121.252, 121.253, 121.254, and 121.255 of the Revised Code: 420

(A) "Proposed rule" means the original version of a proposed 421
rule and each revised version of the same proposed rule. 422

(B) "Rule" means the enactment of a new rule or the amendment 423
or rescission of an existing rule. 424

(C) "Rule-making agency" has the same meaning as in division 425
(I) of section 119.01 of the Revised Code. 426

(D) "Small business" means an independently owned and 427
operated business entity, including its affiliates, having fewer 428
than five hundred employees. 429

Sec. 121.251. If a rule-making agency intends to adopt a rule 430
that, if adopted, may have any adverse impact on small businesses, 431
the rule-making agency shall do both of the following before 432

filing the proposed rule under division (D) of section 111.15 or 433
division (H) of section 119.03 of the Revised Code: 434

(A) Conduct a cost-benefit analysis to determine whether the 435
effect of the proposed rule on small businesses outweighs the 436
benefits of the proposed rule, and prepare a cost-benefit report 437
regarding the results of that analysis. The cost-benefit report 438
shall include all of the following: 439

(1) An identification and estimate of the number of small 440
businesses subject to the proposed rule; 441

(2) The projected reporting, recordkeeping, and other 442
administrative costs required for compliance with the proposed 443
rule, including the type of technical or professional skills 444
necessary for preparation of any report or record required by the 445
proposed rule; 446

(3) A statement of the probable effect of the proposed rule 447
on the impacted small businesses identified under division (A)(1) 448
of this section; 449

(4) A description of any less intrusive or less costly 450
alternative methods of achieving the purpose of the proposed rule; 451
and 452

(5) Any other information the rule-making agency considers 453
necessary to fully explain its cost-benefit analysis regarding the 454
proposed rule. 455

(B) Prepare an analysis of how each of the following methods 456
might reduce any adverse impact the proposed rule may have on 457
small businesses and incorporate into the proposed rule any of the 458
methods that the rule-making agency finds to be feasible, unless 459
doing so would be contrary to the statutory objectives that are 460
the basis for the proposed rule: 461

(1) The establishment of less stringent compliance or 462

reporting requirements for small businesses; 463

(2) The establishment of less stringent schedules or 464
deadlines for compliance or reporting requirements for small 465
businesses; 466

(3) The consolidation or simplification of compliance or 467
reporting requirements for small businesses; 468

(4) The establishment of performance standards for small 469
businesses to replace design or operational standards required in 470
the proposed rule; and 471

(5) The exemption of small businesses from any or all of the 472
proposed rule's requirements. 473

Sec. 121.252. At the same time a rule-making agency, under 474
division (D) of section 111.15 or division (H) of section 119.03 475
of the Revised Code, files a proposed rule that may have any 476
adverse impact on small businesses, the rule-making agency also 477
shall file all of the following in electronic form with the Ohio 478
small business ombudsperson: 479

(A) The full text of the proposed rule; 480

(B) The cost-benefit report regarding the proposed rule; 481

(C) The analysis and any documentation that the rule-making 482
agency conducted or used in support of its determination of any 483
adverse impact the proposed rule may have on small businesses; and 484
485

(D) A description of the actions the rule-making agency has 486
taken to comply with division (B) of section 121.251 of the 487
Revised Code. 488

Sec. 121.253. (A) The Ohio small business ombudsperson shall 489
publish all of the following in the register of Ohio: 490

<u>(1) The full text of a proposed rule;</u>	491
<u>(2) The cost-benefit report, the analysis and any supporting documentation, and the description of actions taken; and</u>	492 493
<u>(3) A notice informing persons that they may comment to the ombudsperson concerning any adverse impact the proposed rule, if adopted, may have on small businesses. The notice shall explain how persons may communicate comments to the ombudsperson.</u>	494 495 496 497
<u>(B) Any person may comment to the ombudsperson concerning any adverse impact a proposed rule, if adopted, may have on small businesses. The ombudsperson shall establish and maintain, or participate in, a web site having features that enable persons to comment electronically. And the ombudsperson shall establish a toll-free telephone number persons may call to make comments. The telephone answering point shall be equipped to record comments that are called in.</u>	498 499 500 501 502 503 504 505
<u>(C)(1) The ombudsperson shall collate and review comments that are received with regard to a proposed rule, and shall compile them in a report that describes in detail the substance of the comments and, in particular, any objections to the proposed rule.</u>	506 507 508 509 510
<u>(2) The ombudsperson shall publish the report in the register of Ohio and shall file the report in electronic form with the rule-making agency that proposed the rule and with the small business regulatory review board. At the same time, the ombudsperson shall file in electronic form with the board the full text of the proposed rule and the cost-benefit report, the analysis and any supporting documentation, and the description of actions taken.</u>	511 512 513 514 515 516 517 518
<u>Sec. 121.254. (A)(1) Within one week after receiving a report from the Ohio small business ombudsperson, the small business</u>	519 520

regulatory review board shall hold a meeting at which it shall 521
review the report, the proposed rule that is the subject of the 522
report, and the cost-benefit report, the analysis and any 523
supporting documentation, and the description of actions taken, 524
and shall determine whether the rule-making agency proposing the 525
rule has complied with sections 121.251 and 121.252 of the Revised 526
Code. 527

(2) The board may conduct a public hearing on the proposed 528
rule at which any person having an interest in the proposed rule 529
may appear and offer comments on, or objections to, the proposed 530
rule insofar as it may, if adopted, have any adverse impact on 531
small businesses. The board shall give notice of such a public 532
hearing in the register of Ohio at least ten days before the date 533
set for the hearing. In the notice, the board shall state the date 534
and time when, and the place where, the public hearing will be 535
held. 536

(B) If the board finds that a rule-making agency, in 537
proposing a rule, has failed to comply with section 121.251 or 538
121.252 of the Revised Code, the board shall issue in writing a 539
determination of noncompliance that states the determination and 540
explains why the proposed rule fails to comply with those 541
sections. The board may include in the determination of 542
noncompliance suggested changes in the proposed rule that will 543
bring the proposed rule into compliance with section 121.251 of 544
the Revised Code. The board shall file in electronic form with the 545
rule-making agency and with the joint committee on agency rule 546
review the determination of noncompliance, the full text of the 547
proposed rule, and the cost-benefit report, the analysis and any 548
supporting documentation, and the description of actions taken. 549
The board shall publish the determination of noncompliance in the 550
register of Ohio. 551

Sec. 121.255. 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.

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

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

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

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

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

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

(1) Act as liaison between the small business community and

state governmental agencies; 582

(2) Furnish information and technical assistance to persons 583
and small businesses concerning the establishment and maintenance 584
of a small business, and concerning state laws and rules relevant 585
to the operation of a small business. In conjunction with these 586
duties, the office shall keep a record of all state agency rules 587
affecting ~~individuals~~, small businesses, ~~or small organizations~~, 588
as defined in section ~~121.24~~ 121.25 of the Revised Code, and the 589
ombudsperson may testify before the joint committee on agency rule 590
review concerning any proposed rule affecting ~~individuals~~, small 591
businesses, ~~or small organizations~~. 592

(3) Prepare and publish the small business register under 593
section 122.081 of the Revised Code; 594

(4) Receive complaints from small businesses concerning 595
governmental activity, compile and analyze those complaints, and 596
periodically make recommendations to the governor and the general 597
assembly on changes in state laws or agency rules needed to 598
eliminate burdensome and unproductive governmental regulation to 599
improve the economic climate within which small businesses 600
operate; 601

(5) Receive complaints or questions from small businesses and 602
direct those businesses to the appropriate governmental agency. 603
If, within a reasonable period of time, a complaint is not 604
satisfactorily resolved or a question is not satisfactorily 605
answered, the office shall, on behalf of the small business, make 606
every effort to secure a satisfactory result. For this purpose, 607
the office may consult with any state governmental agency and may 608
make any suggestion or request that seems appropriate. 609

(6) Utilize, to the maximum extent possible, the printed and 610
electronic media to disseminate information of current concern and 611
interest to the small business community and to make known to 612

small businesses the services available through the office. The 613
office shall publish such books, pamphlets, and other printed 614
materials, and shall participate in such trade association 615
meetings, conventions, fairs, and other meetings involving the 616
small business community, as the ~~manager~~ ombudsperson considers 617
appropriate. 618

(7) Prepare for inclusion in the department of development's 619
annual report to the governor and general assembly, a description 620
of the activities of the office and a report of the number of 621
rules affecting ~~individuals, small businesses, and small~~ 622
~~organizations~~ that were filed with the ~~office~~ ombudsperson under 623
~~division (B)(2) of section 121.24~~ 121.252 of the Revised Code, 624
during the preceding calendar year; 625

(8) Operate the Ohio first-stop business connection to assist 626
individuals in identifying and preparing applications for business 627
licenses, permits, and certificates and to serve as the central 628
public distributor for all forms, applications, and other 629
information related to business licensing. Each state agency, 630
board, and commission shall cooperate in providing assistance, 631
information, and materials to enable the connection to perform its 632
duties under this division. 633

(9) Comply with section 121.253 of the Revised Code; 634

(10) Maintain and publicize a toll-free telephone number Ohio 635
small businesses may call to reach the ombudsperson, who shall 636
assist those small businesses in complying with state regulatory 637
requirements; 638

(11) Interface with other agencies to facilitate the 639
resolution of small business regulatory issues; 640

(12) Provide all necessary staff and support for the small 641
business regulatory review board; 642

(13) Interface with small businesses in an effort to create 643

and retain jobs in this state; 644

(14) Conduct an annual regulatory compliance audit to 645
determine which, if any, rules pertaining to small businesses 646
require duplicative reporting or recordkeeping of the same or 647
substantially similar information for multiple regulatory 648
entities; 649

(15) Conduct an annual assessment that identifies which rules 650
have any adverse impact on small businesses; and 651

(16) Prepare an annual report and submit it to the governor 652
and the general assembly on or before the first day of January 653
each year. 654

The report shall contain the results of the audit conducted 655
under division (B)(14) of this section, and shall make 656
recommendations on how to minimize any adverse impact of rules 657
identified under division (B)(15) of this section. 658

(C) The office ~~may~~ shall, upon the request of a state agency, 659
assist the agency with the preparation of any rule that will 660
affect ~~individuals, small businesses, or small organizations.~~ The 661
office shall train rule-making agency personnel on methods to be 662
used under section 121.251 of the Revised Code to conduct a 663
cost-benefit analysis, to prepare a cost-benefit report, and to 664
prepare an analysis of how the adverse impact of a proposed rule 665
on small businesses may be reduced. 666

(D) The director of development shall assign employees and 667
furnish equipment and supplies to the office as the director 668
considers necessary for the proper performance of the duties 669
assigned to the office. 670

Sec. 124.04. In addition to those powers enumerated in 671
Chapters 123. and 125. of the Revised Code and as provided 672
elsewhere by law, the powers, duties, and functions of the 673

department of administrative services not specifically vested in 674
and assigned to, or to be performed by, the state personnel board 675
of review are hereby vested in and assigned to, and shall be 676
performed by, the director of administrative services. These 677
powers, duties, and functions shall include, but shall not be 678
limited to, the following powers, duties, and functions: 679

(A) To prepare, conduct, and grade all competitive 680
examinations for positions in the classified state service; 681

(B) To prepare, conduct, and grade all noncompetitive 682
examinations for positions in the classified state service; 683

(C) To prepare eligible lists containing the names of persons 684
qualified for appointment to positions in the classified state 685
service; 686

(D) To prepare or amend, in accordance with section 124.14 of 687
the Revised Code, specifications descriptive of duties, 688
responsibilities, requirements, and desirable qualifications of 689
the various classifications of positions in the state service; 690

(E) To allocate and reallocate, upon the motion of the 691
director or upon request of an appointing authority and in 692
accordance with section 124.14 of the Revised Code, any position, 693
office, or employment in the state service to the appropriate 694
classification on the basis of the duties, responsibilities, 695
requirements, and qualifications of that position, office, or 696
employment; 697

(F) To develop and conduct personnel recruitment services for 698
positions in the state service; 699

(G) To conduct research on specifications, classifications, 700
and salaries of positions in the state service; 701

(H) To develop and conduct personnel training programs, 702
including supervisory training programs and best practices plans, 703

and to develop merit hiring processes, in cooperation with 704
appointing authorities; 705

(I) To include periodically in communications sent to state 706
employees both of the following: 707

(1) Information developed under section 2108.15 of the 708
Revised Code promoting the donation of anatomical gifts under 709
Chapter 2108. of the Revised Code; 710

(2) Information about the liver or kidney donor and bone 711
marrow donor leave granted under section 124.139 of the Revised 712
Code. 713

(J) To enter into agreements with universities and colleges 714
for in-service training of officers and employees in the civil 715
service and to assist appointing authorities in recruiting 716
qualified applicants; 717

(K) To appoint examiners, inspectors, clerks, and other 718
assistants necessary in the exercise of the powers and performance 719
of the duties and functions which the director is by law 720
authorized and required to exercise and perform, and to prescribe 721
the duties of all of those employees; 722

(L) To maintain a journal, which shall be open to public 723
inspection, in which the director shall keep a record of the 724
director's final decision pertaining to the classification or 725
reclassification of positions in the classified civil service of 726
the state and assignment or reassignment of employees in the 727
classified civil service of the state to specific position 728
classifications; 729

(M) To develop customer service performance standards for 730
officers and employees of state agencies under section 124.95 of 731
the Revised Code; 732

(N) To delegate any of the powers, functions, or duties 733

granted or assigned to the director under this chapter to any 734
other state agency of this state as the director considers 735
necessary; 736

~~(N)~~(O) To delegate any of the powers, functions, or duties 737
granted or assigned to the director under this chapter to any 738
political subdivision with the concurrence of the legislative 739
authority of the political subdivision. 740

Sec. 124.95. (A) As used in this section, "state agency" has 741
the meaning defined in section 1.60 of the Revised Code, but does 742
not include any court or judicial agency, the general assembly or 743
any legislative agency, or the controlling board. 744

(B) On or before January 1, 2010, the director of 745
administrative services, under division (A) of section 124.09 of 746
the Revised Code, shall develop and adopt rules, and thereafter 747
may amend or rescind rules, that establish customer service 748
performance standards for officers and employees of state 749
agencies, but not for officers who are elected. The performance 750
standards shall be specific to the various positions in each state 751
agency and shall be based on the duties, responsibilities, 752
requirements, and qualifications of the positions. The performance 753
standards shall be applied to and used in conducting each 754
employee's annual performance review. 755

The director shall solicit recommendations concerning 756
improving customer service from human resource professionals, and, 757
before adopting rules under this section, shall consider the 758
recommendations that are submitted. 759

Section 2. That sections 103.0511, 111.15, 117.20, 119.031, 760
121.39, 122.081, 122.94, and 1710.02 of the Revised Code be 761
amended to read as follows: 762

Sec. 103.0511. The director of the legislative service 763
commission shall establish and maintain, and enhance and improve, 764
an electronic rule-filing system connecting: 765

(A) The legislative service commission, the joint committee 766
on agency rule review, the secretary of state, and the office of 767
small business; 768

(B) The governor, the senate and house of representatives, 769
and the clerks of the senate and house of representatives; 770

(C) Each agency that files rules and other rule-making and 771
rule-related documents with the legislative service commission, 772
the joint committee on agency rule review, the governor, the 773
secretary of state, the ~~office of small business~~ Ohio small 774
business ombudsperson, the general assembly, or a committee of the 775
senate or house of representatives under section 111.15, 117.20, 776
119.03, 119.031, 119.032, 119.0311, 119.04, ~~121.24~~, 121.252, 777
121.39, 127.18, 4141.14, 5117.02, or 5703.14 of the Revised Code 778
or any other statute; 779

(D) The several publishers of the Administrative Code; and 780

(E) Any other person or governmental officer or entity whose 781
inclusion in the system is required for the system to be a 782
complete electronic rule-filing system. 783

The electronic rule-filing system is to enable rules and 784
rule-making and rule-related documents to be filed, and official 785
responses to these filings to be made, exclusively by electronic 786
means. 787

Sec. 111.15. (A) As used in this section: 788

(1) "Rule" includes any rule, regulation, bylaw, or standard 789
having a general and uniform operation adopted by an agency under 790
the authority of the laws governing the agency; any appendix to a 791

rule; and any internal management rule. "Rule" does not include 792
any guideline adopted pursuant to section 3301.0714 of the Revised 793
Code, any order respecting the duties of employees, any finding, 794
any determination of a question of law or fact in a matter 795
presented to an agency, or any rule promulgated pursuant to 796
Chapter 119., section 4141.14, division (C)(1) or (2) of section 797
5117.02, or section 5703.14 of the Revised Code. "Rule" includes 798
any amendment or rescission of a rule. 799

(2) "Agency" means any governmental entity of the state and 800
includes, but is not limited to, any board, department, division, 801
commission, bureau, society, council, institution, state college 802
or university, community college district, technical college 803
district, or state community college. "Agency" does not include 804
the general assembly, the controlling board, the adjutant 805
general's department, or any court. 806

(3) "Internal management rule" means any rule, regulation, 807
bylaw, or standard governing the day-to-day staff procedures and 808
operations within an agency. 809

(4) "Substantive revision" has the same meaning as in 810
division (J) of section 119.01 of the Revised Code. 811

(B)(1) Any rule, other than a rule of an emergency nature, 812
adopted by any agency pursuant to this section shall be effective 813
on the tenth day after the day on which the rule in final form and 814
in compliance with division (B)(3) of this section is filed as 815
follows: 816

(a) The rule shall be filed in electronic form with both the 817
secretary of state and the director of the legislative service 818
commission; 819

(b) The rule shall be filed in electronic form with the joint 820
committee on agency rule review. Division (B)(1)(b) of this 821
section does not apply to any rule to which division (D) of this 822

section does not apply. 823

An agency that adopts or amends a rule that is subject to 824
division (D) of this section shall assign a review date to the 825
rule that is not later than five years after its effective date. 826
If no review date is assigned to a rule, or if a review date 827
assigned to a rule exceeds the five-year maximum, the review date 828
for the rule is five years after its effective date. A rule with a 829
review date is subject to review under section 119.032 of the 830
Revised Code. This paragraph does not apply to a rule of a state 831
college or university, community college district, technical 832
college district, or state community college. 833

If all filings are not completed on the same day, the rule 834
shall be effective on the tenth day after the day on which the 835
latest filing is completed. If an agency in adopting a rule 836
designates an effective date that is later than the effective date 837
provided for by division (B)(1) of this section, the rule if filed 838
as required by such division shall become effective on the later 839
date designated by the agency. 840

Any rule that is required to be filed under division (B)(1) 841
of this section is also subject to division (D) of this section if 842
not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or 843
(8) of this section. 844

If a rule incorporates a text or other material by reference, 845
the agency shall comply with sections 121.71 to 121.76 of the 846
Revised Code. 847

(2) A rule of an emergency nature necessary for the immediate 848
preservation of the public peace, health, or safety shall state 849
the reasons for the necessity. The emergency rule, in final form 850
and in compliance with division (B)(3) of this section, shall be 851
filed in electronic form with the secretary of state, the director 852
of the legislative service commission, and the joint committee on 853

agency rule review. The emergency rule is effective immediately 854
upon completion of the latest filing, except that if the agency in 855
adopting the emergency rule designates an effective date, or date 856
and time of day, that is later than the effective date and time 857
provided for by division (B)(2) of this section, the emergency 858
rule if filed as required by such division shall become effective 859
at the later date, or later date and time of day, designated by 860
the agency. 861

An emergency rule becomes invalid at the end of the ninetieth 862
day it is in effect. Prior to that date, the agency may file the 863
emergency rule as a nonemergency rule in compliance with division 864
(B)(1) of this section. The agency may not refile the emergency 865
rule in compliance with division (B)(2) of this section so that, 866
upon the emergency rule becoming invalid under such division, the 867
emergency rule will continue in effect without interruption for 868
another ninety-day period. 869

(3) An agency shall file a rule under division (B)(1) or (2) 870
of this section in compliance with the following standards and 871
procedures: 872

(a) The rule shall be numbered in accordance with the 873
numbering system devised by the director for the Ohio 874
administrative code. 875

(b) The rule shall be prepared and submitted in compliance 876
with the rules of the legislative service commission. 877

(c) The rule shall clearly state the date on which it is to 878
be effective and the date on which it will expire, if known. 879

(d) Each rule that amends or rescinds another rule shall 880
clearly refer to the rule that is amended or rescinded. Each 881
amendment shall fully restate the rule as amended. 882

If the director of the legislative service commission or the 883
director's designee gives an agency notice pursuant to section 884

103.05 of the Revised Code that a rule filed by the agency is not 885
in compliance with the rules of the legislative service 886
commission, the agency shall within thirty days after receipt of 887
the notice conform the rule to the rules of the commission as 888
directed in the notice. 889

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) 890
of this section shall be recorded by the secretary of state and 891
the director under the title of the agency adopting the rule and 892
shall be numbered according to the numbering system devised by the 893
director. The secretary of state and the director shall preserve 894
the rules in an accessible manner. Each such rule shall be a 895
public record open to public inspection and may be transmitted to 896
any law publishing company that wishes to reproduce it. 897

(D) At least sixty-five days before a board, commission, 898
department, division, or bureau of the government of the state 899
files a rule under division (B)(1) of this section, it shall file 900
the full text of the proposed rule in electronic form with the 901
joint committee on agency rule review, and the proposed rule is 902
subject to legislative review and invalidation under division (I) 903
of section 119.03 of the Revised Code. If a state board, 904
commission, department, division, or bureau makes a substantive 905
revision in a proposed rule after it is filed with the joint 906
committee, the state board, commission, department, division, or 907
bureau shall promptly file the full text of the proposed rule in 908
its revised form in electronic form with the joint committee. The 909
latest version of a proposed rule as filed with the joint 910
committee supersedes each earlier version of the text of the same 911
proposed rule. Except as provided in division (F) of this section, 912
a state board, commission, department, division, or bureau shall 913
also file the rule summary and fiscal analysis prepared under 914
section ~~121.24~~ or 127.18 of the Revised Code, ~~or both,~~ in 915
electronic form along with a proposed rule, and along with a 916

proposed rule in revised form, that is filed under this division. 917

As used in this division, "commission" includes the public 918
utilities commission when adopting rules under a federal or state 919
statute. 920

This division does not apply to any of the following: 921

(1) A proposed rule of an emergency nature; 922

(2) A rule proposed under section 1121.05, 1121.06, 1155.18, 923
1163.22, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 924
4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised 925
Code; 926

(3) A rule proposed by an agency other than a board, 927
commission, department, division, or bureau of the government of 928
the state; 929

(4) A proposed internal management rule of a board, 930
commission, department, division, or bureau of the government of 931
the state; 932

(5) Any proposed rule that must be adopted verbatim by an 933
agency pursuant to federal law or rule, to become effective within 934
sixty days of adoption, in order to continue the operation of a 935
federally reimbursed program in this state, so long as the 936
proposed rule contains both of the following: 937

(a) A statement that it is proposed for the purpose of 938
complying with a federal law or rule; 939

(b) A citation to the federal law or rule that requires 940
verbatim compliance. 941

(6) An initial rule proposed by the director of health to 942
impose safety standards and quality-of-care standards with respect 943
to a health service specified in section 3702.11 of the Revised 944
Code, or an initial rule proposed by the director to impose 945
quality standards on a facility listed in division (A)(4) of 946

section 3702.30 of the Revised Code, if section 3702.12 of the Revised Code requires that the rule be adopted under this section;

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

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

(E) Whenever a state board, commission, department, division, or bureau files a proposed rule or a proposed rule in revised form under division (D) of this section, it shall also file the full text of the same proposed rule or proposed rule in revised form in electronic form with the secretary of state and the director of the legislative service commission. Except as provided in division (F) of this section, a state board, commission, department, division, or bureau shall file the rule summary and fiscal analysis prepared under section ~~121.24~~ or 127.18 of the Revised Code, ~~or both,~~ in electronic form along with a proposed rule or proposed rule in revised form that is filed with the secretary of state or the director of the legislative service commission.

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

~~electronic form along with the original version of the proposed rule filed under division (D) or (E) of this section.~~ 979
980

Sec. 117.20. (A) In adopting rules pursuant to Chapter 117. 981
of the Revised Code, the auditor of state or the auditor of 982
state's designee shall do both of the following: 983

(1) Before adopting any such rule, except a rule of an 984
emergency nature, do each of the following: 985

(a) At least thirty-five days before any public hearing on 986
the proposed rule-making action, mail notice of the hearing to 987
each public office and to each statewide organization that the 988
auditor of state or designee determines will be affected or 989
represents persons who will be affected by the proposed 990
rule-making action; 991

(b) Mail a copy of the proposed rule to any person or 992
organization that requests a copy within five days after receipt 993
of the request; 994

(c) Consult with appropriate state and local government 995
agencies, or with persons representative of their interests, 996
including statewide organizations of local government officials, 997
and consult with accounting professionals and other interested 998
persons; 999

(d) Conduct, on the date and at the time and place designated 1000
in the notice, a public hearing at which any person affected by 1001
the proposed rule, including statewide organizations of local 1002
government officials, may appear and be heard in person, by 1003
attorney, or both, and may present the person's or organization's 1004
position or contentions orally or in writing. 1005

(2) Except as otherwise provided in division (A)(2) of this 1006
section, comply with divisions (B) to (E) of section 111.15 of the 1007
Revised Code. The auditor of state is not required to file a rule 1008

summary and fiscal analysis along with any copy of a proposed 1009
rule, or proposed rule in revised form, that is filed with the 1010
joint committee on agency rule review, the secretary of state, or 1011
the director of the legislative service commission under division 1012
(D) or (E) of section 111.15 of the Revised Code; ~~however, if the 1013~~
~~auditor of state or the auditor of state's designee prepares a 1014~~
~~rule summary and fiscal analysis of the original version of a 1015~~
~~proposed rule for purposes of complying with section 121.24 of the 1016~~
~~Revised Code, the auditor of state or designee shall file a copy 1017~~
~~of the rule summary and fiscal analysis in electronic form along 1018~~
~~with the original version of the proposed rule filed under 1019~~
~~division (D) or (E) of section 111.15 of the Revised Code. 1020~~

(B) The auditor of state shall diligently discharge the 1021
duties imposed by divisions (A)(1)(a), (b), and (c) of this 1022
section, but failure to mail any notice or copy of a proposed 1023
rule, or to consult with any person or organization, shall not 1024
invalidate any rule. 1025

(C) Notwithstanding any contrary provision of the Revised 1026
Code, the auditor of state may prepare and disseminate, to public 1027
offices and other interested persons and organizations, advisory 1028
bulletins, directives, and instructions relating to accounting and 1029
financial reporting systems, budgeting procedures, fiscal 1030
controls, and the constructions by the auditor of state of 1031
constitutional and statutory provisions, court decisions, and 1032
opinions of the attorney general. The bulletins, directives, and 1033
instructions shall be of an advisory nature only. 1034

(D) As used in this section, "rule" includes the adoption, 1035
amendment, or rescission of a rule. 1036

Sec. 119.031. (A) The chairperson of the joint committee on 1037
agency rule review shall compare each rule, amendment, or 1038
rescission as filed in final form with the latest version of the 1039

same rule, amendment, or rescission as filed in proposed form. 1040

(B) If, upon making the comparison required by division (A) 1041
of this section, the chairperson of the joint committee on agency 1042
rule review finds that the rule-making agency has made a 1043
substantive revision in the rule, amendment, or rescission between 1044
the time it filed the latest version of the rule, amendment, or 1045
rescission in proposed form and the time it filed the rule, 1046
amendment, or rescission in final form, the chairperson shall 1047
promptly notify the rule-making agency, the secretary of state, 1048
and the director of the legislative service commission in 1049
electronic form of that finding. 1050

(C) The joint committee on agency rule review shall review 1051
any rule, amendment, or rescission as filed in final form if, 1052
under division (B) of this section, it is found to contain a 1053
substantive revision. The joint committee may do either or both of 1054
the following: 1055

(1) If the joint committee makes any of the findings stated 1056
in division (I)(1)(a), (b), ~~or (c)~~, or (f) of section 119.03 of 1057
the Revised Code, it may suspend the rule, amendment, rescission, 1058
or any part thereof. The suspension shall remain in effect until 1059
the time for legislative review and invalidation has expired under 1060
division (D) of this section, or until the general assembly adopts 1061
a concurrent resolution invalidating the rule, amendment, 1062
rescission, or any part thereof, whichever occurs first. The 1063
chairperson of the joint committee shall promptly notify the 1064
rule-making agency, the secretary of state, and the director of 1065
the legislative service commission in electronic form of the 1066
suspension. 1067

(2) The joint committee may recommend the adoption of a 1068
concurrent resolution invalidating the rule, amendment, 1069
rescission, or any part thereof if it makes any of the findings 1070
stated in division (I)(1)(a), (b), ~~or (c)~~, or (f) of section 1071

119.03 of the Revised Code. 1072

(D) A rule, amendment, or rescission that, under division (B) 1073
of this section, is found to contain a substantive revision shall 1074
nevertheless become effective pursuant to division (B)(1) of 1075
section 111.15, division (A)(1) of section 119.04, division (B)(1) 1076
of section 4141.14, or division (A) of section 5703.14 of the 1077
Revised Code and remain in effect as filed in final form unless: 1078

(1) Under division (C)(1) of this section, the joint 1079
committee suspends the rule, amendment, rescission, or any part 1080
thereof; or 1081

(2) Prior to the sixtieth day after the rule, amendment, or 1082
rescission was filed in final form, the house of representatives 1083
and senate adopt a concurrent resolution invalidating the rule, 1084
amendment, rescission, or any part thereof. If, after the joint 1085
committee on agency rule review recommends the adoption of a 1086
concurrent resolution invalidating the rule, amendment, 1087
rescission, or part thereof, the house of representatives or 1088
senate does not, within the time remaining for adoption of the 1089
concurrent resolution, hold five floor sessions at which its 1090
journal records a roll call vote disclosing a sufficient number of 1091
members in attendance to pass a bill, the time within which that 1092
house may adopt the concurrent resolution is extended until it has 1093
held five such floor sessions. 1094

Upon the adoption of such a concurrent resolution, the clerk 1095
of the senate shall, within five days thereafter, send the 1096
rule-making agency, the secretary of state, and the director of 1097
the legislative service commission, in electronic form, a 1098
certified copy of the resolution together with a certification 1099
stating the date on which the resolution takes effect. The 1100
secretary of state and the director shall each note the invalidity 1101
of the rule, amendment, rescission, or part thereof, and shall 1102
remove the invalid rule, amendment, rescission, or part thereof 1103

from the file of current rules. The director shall also indicate 1104
in the Ohio administrative code that the rule, amendment, 1105
rescission, or part thereof is invalid and the date of 1106
invalidation. The rule-making agency shall make appropriate 1107
adjustments to reflect the invalidity of the rule, amendment, 1108
rescission, or part thereof. 1109

(E) Invalidation of a rule, amendment, rescission, or part 1110
thereof under this section shall prevent the rule-making agency 1111
from instituting proceedings to readopt any version of the same 1112
rule, amendment, rescission, or part thereof for the duration of 1113
the general assembly that invalidated the rule, amendment, 1114
rescission, or part thereof unless the same general assembly 1115
adopts a concurrent resolution permitting the rule-making agency 1116
to institute such proceedings. 1117

(F) The failure of the general assembly to invalidate a rule, 1118
amendment, rescission, or part thereof under this section shall 1119
not be construed as a ratification of the lawfulness or 1120
reasonableness of the rule, amendment, rescission, or any part 1121
thereof or of the validity of the procedure by which the rule, 1122
amendment, rescission, or any part thereof was adopted. 1123

(G) As used in this section, a rule, amendment, or rescission 1124
is filed: 1125

(1) "In proposed form" when it is filed in such form with the 1126
joint committee under division (D) of section 111.15 or division 1127
(H) of section 119.03 of the Revised Code; 1128

(2) "In final form" when it is filed in such form with the 1129
joint committee under division (B)(1)(b) of section 111.15, 1130
division (A)(1)(b) of section 119.04, division (B)(1)(b) of 1131
section 4141.14, or division (A)(2) of section 5703.14 of the 1132
Revised Code. 1133

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

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

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

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

(4) Plans or programs to promote or regulate the conservation, recycling, or reuse of energy, materials, or wastes.

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

Also at the time of the first hearing of the legislation before the committee, a statewide organization that represents

businesses in this state and that elects its board of directors 1164
may submit to the members of the committee a written estimate of 1165
the costs to the regulated community in this state of complying 1166
with the legislation if it is enacted. 1167

At any hearing of the legislation before the committee, a 1168
representative of any state agency, environmental advocacy 1169
organization, or consumer advocacy organization or any private 1170
citizen may present documentation containing an estimate of the 1171
monetary and other costs to public health and safety and the 1172
environment and to consumers and residential utility customers, 1173
and the effects on property values, if the legislation is not 1174
enacted. 1175

(C) Until such time as the statement required under division 1176
(B) of this section is submitted to the committee to which 1177
proposed legislation dealing with environmental protection or 1178
containing a component dealing with environmental protection was 1179
referred, the legislation shall not be reported by that committee. 1180
This requirement does not apply if the component dealing with 1181
environmental protection is removed from the legislation or if 1182
two-thirds of the members of the committee vote in favor of a 1183
motion to report the proposed legislation. 1184

(D) Except as otherwise provided in division (E) of this 1185
section, prior to adopting a rule or an amendment proposed to a 1186
rule dealing with environmental protection or containing a 1187
component dealing with environmental protection, a state agency 1188
shall do all of the following: 1189

(1) Consult with organizations that represent political 1190
subdivisions, environmental interests, business interests, and 1191
other persons affected by the proposed rule or amendment; 1192

(2) Consider documentation relevant to the need for, the 1193
environmental benefits or consequences of, other benefits of, and 1194

the technological feasibility of the proposed rule or amendment; 1195

(3) Specifically identify whether the proposed rule or 1196
amendment is being adopted or amended to enable the state to 1197
obtain or maintain approval to administer and enforce a federal 1198
environmental law or to participate in a federal environmental 1199
program, whether the proposed rule or amendment is more stringent 1200
than its federal counterpart, and, if the proposed rule or 1201
amendment is more stringent, the rationale for not incorporating 1202
its federal counterpart; 1203

(4) Include with the proposed rule or amendment and the rule 1204
summary and fiscal analysis required under ~~sections 121.24 and~~ 1205
section 127.18 of the Revised Code, when they are filed with the 1206
joint committee on agency rule review in accordance with division 1207
(D) of section 111.15 or division (H) of section 119.03 of the 1208
Revised Code, one of the following in electronic form, as 1209
applicable: 1210

(a) The information identified under division (D)(3) of this 1211
section and, if the proposed rule or amendment is more stringent 1212
than its federal counterpart, as identified in that division, the 1213
documentation considered under division (D)(2) of this section; 1214

(b) If an amendment proposed to a rule is being adopted or 1215
amended under a state statute that establishes standards with 1216
which the amendment shall comply, and the proposed amendment is 1217
more stringent than the rule that it is proposing to amend, the 1218
documentation considered under division (D)(2) of this section; 1219

(c) If division (D)(4)(a) or (b) of this section is not 1220
applicable, the documentation considered under division (D)(2) of 1221
this section. 1222

If the agency subsequently files a revision of such a 1223
proposed rule or amendment in accordance with division (D) of 1224
section 111.15 or division (H) of section 119.03 of the Revised 1225

Code, the revision shall be accompanied in electronic form by the 1226
applicable information or documentation. 1227

Division (D) of this section does not apply to any emergency 1228
rule adopted under division (B)(2) of section 111.15 or division 1229
(F) of section 119.03 of the Revised Code, but does apply to any 1230
such rule that subsequently is adopted as a nonemergency rule 1231
under either of those divisions. 1232

The information or documentation submitted under division 1233
(D)(4) of this section may be in the form of a summary or index of 1234
available knowledge or information and shall consist of or be 1235
based upon the best available generally accepted knowledge or 1236
information in the appropriate fields, as determined by the agency 1237
that prepared the documentation. 1238

(E) The statement required under division (B) and the 1239
information or documentation required under division (D) of this 1240
section need not be prepared or submitted with regard to a 1241
proposed statute or rule, or an amendment to a rule, if the 1242
statute, rule, or amendment is procedural or budgetary in nature, 1243
or governs the organization or operation of a state agency, and 1244
will not affect the substantive rights or obligations of any 1245
person other than a state agency or an employee or contractor of a 1246
state agency. 1247

(F) The insufficiency, incompleteness, or inadequacy of a 1248
statement, information, documentation, or a summary of information 1249
or documentation provided in accordance with division (B) or (D) 1250
of this section shall not be grounds for invalidation of any 1251
statute, rule, or amendment to a rule. 1252

(G) This section applies only to the following: 1253

(1) Legislation and components of legislation dealing with 1254
environmental protection that are introduced in the general 1255
assembly after March 5, 1996; 1256

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

Sec. 122.081. (A) The office of small business in the department of development shall prepare and publish a "small business register" or contract with any person as provided in this section to prepare and publish the register. The small business register shall contain the following information regarding each proposed rule filed with the ~~office of small business~~ Ohio small business ombudsperson under ~~division (B)(2) of section 121.24~~ 121.252 of the Revised Code:

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

(2) A brief summary of the proposed rule;

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

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

(B) The small business register shall be published on a weekly basis. The information required under division (A) of this section shall be published in the register no later than two weeks after the proposed rule to which the information relates is filed with the ~~office of small business~~ ombudsperson under ~~division (B)(2) of section 121.24~~ 121.252 of the Revised Code. The office

of small business shall furnish the small business register, on a 1287
single copy or subscription basis, to any person who requests it 1288
and pays a single copy price or subscription rate fixed by the 1289
office. ~~The office shall furnish the chairmen of the standing 1290~~
~~committees of the senate and house of representatives having 1291~~
~~jurisdiction over individuals, small businesses, and small 1292~~
~~organizations with free subscriptions to the small business 1293~~
~~register. 1294~~

(C) Upon the request of the office of small business, the 1295
director of administrative services shall, in accordance with the 1296
competitive selection procedure of Chapter 125. of the Revised 1297
Code, let a contract for the compilation, printing, and 1298
distribution of the small business register. 1299

(D) The office of small business shall adopt, and may amend 1300
or rescind, in accordance with Chapter 119. of the Revised Code, 1301
such rules as are necessary to enable it to properly carry out 1302
this section. 1303

Sec. 122.94. The director of the department of development 1304
shall: 1305

(A) Promulgate rules in accordance with Chapter 119. of the 1306
Revised Code for the conduct of the minority business development 1307
division's business and for carrying out the purposes of sections 1308
122.92 to 122.94 of the Revised Code; 1309

(B) Prepare an annual report to the governor and the general 1310
assembly on or before the first day of February of its activities 1311
for the preceding calendar year. ~~In addition to the submissions 1312~~
~~required by section 101.68 of the Revised Code, the director shall 1313~~
~~submit copies of the annual report to the chairmen of the standing 1314~~
~~committees of the senate and house of representatives having 1315~~
~~jurisdiction over individuals, small businesses, and small 1316~~
~~organizations, as those terms are defined in section 121.24 of the 1317~~

~~Revised Code.~~ 1318

Sec. 1710.02. (A) A special improvement district may be 1319
created within the boundaries of any one municipal corporation, 1320
any one township, or any combination of contiguous municipal 1321
corporations and townships by a petition of the property owners 1322
within the proposed district, for the purpose of developing and 1323
implementing plans for public improvements and public services 1324
that benefit the district. All territory in a district shall be 1325
contiguous. 1326

The district shall be governed by the board of trustees of a 1327
nonprofit corporation. This board shall be known as the board of 1328
directors of the special improvement district. No special 1329
improvement district shall include any church property, or 1330
property of the federal or state government or a county, township, 1331
or municipal corporation, unless the church or the county, 1332
township, or municipal corporation specifically requests in 1333
writing that the property be included within the district. More 1334
than one district may be created within a participating political 1335
subdivision, but no real property may be included within more than 1336
one district unless the owner of the property files a written 1337
consent with the clerk of the legislative authority, the township 1338
fiscal officer, or the village clerk, as appropriate. The area of 1339
each district shall be contiguous. 1340

(B) Except as provided in division (C) of this section, a 1341
district created under this chapter is not a political 1342
subdivision. A district created under this chapter shall be 1343
considered a public agency under section 102.01 and a public 1344
authority under section 4115.03 of the Revised Code. Each member 1345
of the board of directors of a district, each member's designee or 1346
proxy, and each officer and employee of a district shall be 1347
considered a public official or employee under section 102.01 of 1348

the Revised Code and a public official and public servant under 1349
section 2921.42 of the Revised Code. Districts created under this 1350
chapter are not subject to section ~~121.24~~ 121.251 or 121.252 of 1351
the Revised Code. Districts created under this chapter are subject 1352
to sections 121.22 and 121.23 of the Revised Code. 1353

(C) Each district created under this chapter shall be 1354
considered a political subdivision for purposes of section 4905.34 1355
of the Revised Code. 1356

Membership on the board of directors of the district shall 1357
not be considered as holding a public office. Directors and their 1358
designees shall be entitled to the immunities provided by Chapter 1359
1702. and to the same immunity as an employee under division 1360
(A)(6) of section 2744.03 of the Revised Code, except that 1361
directors and their designees shall not be entitled to the 1362
indemnification provided in section 2744.07 of the Revised Code 1363
unless the director or designee is an employee or official of a 1364
participating political subdivision of the district and is acting 1365
within the scope of the director's or designee's employment or 1366
official responsibilities. 1367

District officers and district members and directors and 1368
their designees or proxies shall not be required to file a 1369
statement with the Ohio ethics commission under section 102.02 of 1370
the Revised Code. All records of the district shall be treated as 1371
public records under section 149.43 of the Revised Code, except 1372
that records of organizations contracting with a district shall 1373
not be considered to be public records under section 149.43 or 1374
section 149.431 of the Revised Code solely by reason of any 1375
contract with a district. 1376

(D) Except as otherwise provided in this section, the 1377
nonprofit corporation that governs a district shall be organized 1378
in the manner described in Chapter 1702. of the Revised Code. The 1379
corporation's articles of incorporation are required to be 1380

approved, as provided in division (E) of this section, by 1381
resolution of the legislative authority of each participating 1382
political subdivision of the district. A copy of that resolution 1383
shall be filed along with the articles of incorporation in the 1384
secretary of state's office. 1385

In addition to meeting the requirements for articles of 1386
incorporation set forth in Chapter 1702. of the Revised Code, the 1387
articles of incorporation for the nonprofit corporation governing 1388
a district formed under this chapter shall provide all the 1389
following: 1390

(1) The name for the district, which shall include the name 1391
of each participating political subdivision of the district; 1392

(2) A description of the territory within the district, which 1393
may be all or part of each participating political subdivision. 1394
The description shall be specific enough to enable real property 1395
owners to determine if their property is located within the 1396
district. 1397

(3) A description of the procedure by which the articles of 1398
incorporation may be amended. The procedure shall include 1399
receiving approval of the amendment, by resolution, from the 1400
legislative authority of each participating political subdivision 1401
and filing the approved amendment and resolution with the 1402
secretary of state. 1403

(4) The reasons for creating the district, plus an 1404
explanation of how the district will be conducive to the public 1405
health, safety, peace, convenience, and welfare of the district. 1406

(E) The articles of incorporation for a nonprofit corporation 1407
governing a district created under this chapter and amendments to 1408
them shall be submitted to the municipal executive, if any, and 1409
the legislative authority of each municipal corporation or 1410
township in which the proposed district is to be located, 1411

accompanied by a petition signed either by the owners of at least 1412
sixty per cent of the front footage of all real property located 1413
in the proposed district that abuts upon any street, alley, public 1414
road, place, boulevard, parkway, park entrance, easement, or other 1415
existing public improvement within the proposed district, 1416
excluding church property or property owned by the state, county, 1417
township, municipal, or federal government, unless a church, 1418
county, township, or municipal corporation has specifically 1419
requested in writing that the property be included in the 1420
district, or by the owners of at least seventy-five per cent of 1421
the area of all real property located within the proposed 1422
district, excluding church property or property owned by the 1423
state, county, township, municipal, or federal government, unless 1424
a church, county, township, or municipal corporation has 1425
specifically requested in writing that the property be included in 1426
the district. For purposes of determining compliance with these 1427
requirements, the area of the district, or the front footage and 1428
ownership of property, shall be as shown in the most current 1429
records available at the county recorder's office and the county 1430
engineer's office sixty days prior to the date on which the 1431
petition is filed. 1432

Each municipal corporation or township with which the 1433
petition is filed has sixty days to approve or disapprove, by 1434
resolution, the petition, including the articles of incorporation. 1435
This chapter does not prohibit or restrict the rights of municipal 1436
corporations under Article XVIII of the Ohio Constitution or the 1437
right of the municipal legislative authority to impose reasonable 1438
conditions in a resolution of approval. 1439

(F) Persons proposing creation and operation of the district 1440
may propose an initial plan for public services or public 1441
improvements that benefit all or any part of the district. Any 1442
initial plan shall be submitted as part of the petition proposing 1443

creation of the district.	1444
An initial plan may include provisions for the following:	1445
(1) Creation and operation of the district and of the	1446
nonprofit corporation to govern the district under this chapter;	1447
(2) Hiring employees and professional services;	1448
(3) Contracting for insurance;	1449
(4) Purchasing or leasing office space and office equipment;	1450
(5) Other actions necessary initially to form, operate, or	1451
organize the district and the nonprofit corporation to govern the	1452
district;	1453
(6) A plan for public improvements or public services that	1454
benefit all or part of the district, which plan shall comply with	1455
the requirements of division (A) of section 1710.06 of the Revised	1456
Code and may include, but is not limited to, any of the permissive	1457
provisions described in the fourth sentence of that division or	1458
listed in divisions (A)(1) to (5) of that section.	1459
After the initial plan is approved by all municipal	1460
corporations and townships to which it is submitted for approval	1461
and the district is created, each participating subdivision shall	1462
levy a special assessment within its boundaries to pay for the	1463
costs of the initial plan. The levy shall be for no more than ten	1464
years from the date of the approval of the initial plan. For	1465
purposes of levying an assessment for this initial plan, the	1466
services or improvements included in the initial plan shall be	1467
deemed a special benefit to property owners within the district.	1468
(G) Each nonprofit corporation governing a district under	1469
this chapter may do the following:	1470
(1) Exercise all powers of nonprofit corporations granted	1471
under Chapter 1702. of the Revised Code that do not conflict with	1472
this chapter;	1473

(2) Develop, adopt, revise, implement, and repeal plans for public improvements and public services for all or any part of the district;

(3) Contract with any person, political subdivision as defined in section 2744.01 of the Revised Code, or state agency as defined in section 1.60 of the Revised Code to develop and implement plans for public improvements or public services within the district;

(4) Contract and pay for insurance for the district and for directors, officers, agents, contractors, employees, or members of the district for any consequences of the implementation of any plan adopted by the district or any actions of the district.

Section 3. That existing sections 103.0511, 111.15, 117.20, 119.03, 119.031, 121.39, 122.08, 122.081, 122.94, 124.04, and 1710.02 of the Revised Code are hereby repealed.

Section 4. That section 121.24 of the Revised Code is hereby repealed, effective January 1, 2010.

Section 5. The amendment and enactment by this act of sections 103.0511, 111.15, 117.20, 119.03, 119.031, 121.25, 121.251, 121.252, 121.253, 121.254, 121.255, 121.39, 122.08, 122.081, 122.94, and 1710.02 of the Revised Code apply only to a proposed rule the original version of which is required to be filed under division (D) of section 111.15 or division (H) of section 119.03 of the Revised Code on or after January 1, 2010.

Section 6. The several appointing authorities shall make initial appointments to the Small Business Regulatory Review Board for terms commencing on January 1, 2010.