

As Introduced

**129th General Assembly
Regular Session
2011-2012**

S. B. No. 11

Senator Cafaro

—

A BILL

To amend sections 103.051, 103.0511, 121.24, 122.08, 1
122.081, and 127.18 and to enact sections 121.81, 2
121.811, 121.812, 121.813, 121.814, 121.815, 3
121.82, 122.084, and 3745.016 of the Revised Code 4
to enact the Common Sense Regulation Act to 5
improve state agency regulatory processes, 6
especially as they relate to small businesses, to 7
require state departments to develop customer 8
service training programs, and to require the 9
Director of Environmental Protection to provide 10
environmental regulatory compliance assistance to 11
small businesses. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 103.051, 103.0511, 121.24, 122.08, 13
122.081, and 127.18 be amended and that sections 121.81, 121.811, 14
121.812, 121.813, 121.814, 121.815, 121.82, 122.084, and 3745.016 15
of the Revised Code be enacted to read as follows: 16

Sec. 103.051. The "Register of Ohio" is an electronic 17
publication that functions as a gazette to which members of the 18
public may readily resort for notice of and information about 19
rule-making processes. The director of the legislative service 20

commission shall publish the register. The register is to include 21
all rule-making documents that are required by statute to be 22
published in the register and a link to the centralized electronic 23
system for regulatory notification. The director shall display the 24
register free of charge on the internet, and shall ensure that 25
printed copies of all or part of a document published in the 26
register can be easily produced by users of the internet. 27

The director, taking into consideration the public notice and 28
information functions performed by the register, shall update the 29
register at reasonable intervals, but not less often than weekly. 30
The director shall establish a reasonable deadline before each 31
updating. A document received by the director on or before a 32
deadline is to be published in the register upon the register's 33
next updating. The director shall purge a document from the 34
register when its display no longer serves the public notice and 35
information functions performed by the register. 36

The director upon request of any person shall provide the 37
person with a printed copy of all or part of a document published 38
in the register. The director may charge and collect a fee for 39
this service. Any such fee is not to exceed the actual cost of 40
printing and delivering the printed copy to the person requesting 41
it. The director shall deposit the fees into the state treasury to 42
the credit of the register of Ohio fund. 43

Sec. 103.0511. The director of the legislative service 44
commission shall establish and maintain, and enhance and improve, 45
an electronic rule-filing system connecting: 46

(A) The legislative service commission, the joint committee 47
on agency rule review, the secretary of state, and the ~~office of~~ 48
entrepreneurship and small business division; 49

(B) The governor, the senate and house of representatives, 50
and the clerks of the senate and house of representatives; 51

(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~~ entrepreneurship and small business division, 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, 121.39, 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 complete electronic rule-filing system.

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

Sec. 121.24. (A) As used in this section:

(1) "Agency" means any agency as defined in division (A)(2) of section 111.15 or division (A) of section 119.01 of the Revised Code.

(2) "Employee" means a person who is employed by a small business or small organization for at least one thousand eight hundred hours per year.

(3) A rule is "filed in final form" when it is filed with the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review under division (B)(1) of section 111.15, division (A)(1) of section 119.04, division (B)(1) of section 4141.14, or division (A) of section 5703.14 of the Revised Code.

(4) "History trail" means the supplementary information 82
required to be provided on each copy of a proposed rule, which 83
information is not part of the text of the rule, and sets forth 84
the statute prescribing the procedure in accordance with which the 85
proposed rule is required to be adopted, the statute that 86
authorizes the agency to adopt the proposed rule, the statute that 87
the agency intends to amplify or implement by adopting the 88
proposed rule, the effective dates of any previous versions of the 89
rule that is the subject of the proposal, and other similar 90
information as prescribed in rules of the legislative service 91
commission. 92

(5) "Individual" means any individual who is affected by a 93
rule in the individual's capacity as an officer or employee of a 94
small business or small organization. 95

(6) "Rule summary and fiscal analysis" means a rule summary 96
and fiscal analysis of a proposed rule that provides the 97
information required by division (B) of section 127.18 of the 98
Revised Code, and that has been prepared in the form prescribed by 99
the joint committee on agency rule review under division (E) of 100
that section. 101

(7) "Rate" means any rate, classification, fare, toll, 102
rental, or charge of a public utility. 103

(8) "Rule" means any rule, regulation, or standard having a 104
general and uniform operation, including any appendix thereto, 105
that is adopted, promulgated, and enforced by an agency under the 106
authority of the laws governing the agency. "Rule" includes the 107
adoption of a new rule or the amendment or rescission of an 108
existing rule. "Rule" does not include any of the following: 109

(a) A rule proposed under section 1121.05, 1121.06, 1155.18, 110
1163.22, or 1349.33 of the Revised Code; 111

(b) A rule governing the internal management of an agency 112

that does not affect private rights; 113

(c) A rule authorized by law to be issued as a temporary 114
written order; 115

(d) Except as otherwise provided in division (A)(8)(d) of 116
this section, a rule or order, whether of a quasi-legislative or 117
quasi-judicial nature, proposed by the public utilities 118
commission. Any rule or order, whether of a quasi-legislative or 119
quasi-judicial nature, proposed by the public utilities commission 120
that determines a rate of a public utility to be just and 121
reasonable is a "rule" for purposes of this section, unless the 122
rule or order contains findings that the public utility, in 123
applying for approval of the rate under section 4909.18 of the 124
Revised Code, stated facts and grounds sufficient for the 125
commission to determine that the proposed rate was just and 126
reasonable. 127

(e) A proposed rule, the adoption of which is mandated by a 128
federal law or rule, and which must be adopted substantially as 129
prescribed by federal law or rule, to become effective within one 130
hundred twenty days of adoption, so long as the history trail of 131
the proposed rule contains a statement that it is proposed for the 132
purpose of complying with a federal law or rule and a citation to 133
the federal law or rule that mandates substantial compliance; 134

(9) "Small business" means an independently owned and 135
operated business having fewer than four hundred employees. 136

(10) "Small organization" means an unincorporated 137
association, sheltered workshop, or nonprofit enterprise having 138
fewer than four hundred employees. This definition is not limited 139
to the types of small organizations expressly mentioned, and 140
includes all other types of small organizations, so long as such 141
organizations have fewer than four hundred employees. 142

(B) If an agency intends to adopt a rule, and reasonably 143

believes that the proposed rule, if adopted, will be likely to 144
affect individuals, small businesses, or small organizations, the 145
agency shall comply with the following procedure in adopting the 146
rule, in addition to any other procedure required by section 147
111.15, 119.03, 119.032, 119.04, 127.18, 4141.14, or 5117.02 of 148
the Revised Code or any other statute of this state: 149

(1) The agency shall prepare a complete and accurate rule 150
summary and fiscal analysis of the original version of the 151
proposed rule. 152

(2) After complying with division (B)(1) of this section, and 153
at least sixty days before the agency files the proposed rule in 154
final form, the agency shall file with the ~~office of~~ 155
entrepreneurship and small business division, in electronic form, 156
the full text of the original version of the proposed rule and the 157
rule summary and fiscal analysis of such proposed rule. 158

(3) During a period commencing on the date the original 159
version of the proposed rule is filed pursuant to division (B)(2) 160
of this section and ending forty days thereafter: 161

(a) The chairperson of the standing committee of the senate 162
or house of representatives having jurisdiction over individuals, 163
small businesses, or small organizations, or any other person 164
having an interest in the proposed rule, may submit comments in 165
electronic form to the agency, to the joint committee on agency 166
rule review, or to both, concerning the expected effect of the 167
proposed rule, if adopted, upon individuals, small businesses, and 168
small organizations. The agency and joint committee shall accept 169
all such timely submitted written comments. 170

(b) The chairperson of the standing committee of the senate 171
or house of representatives having jurisdiction over individuals, 172
small businesses, or small organizations, in electronic form, may 173
request the agency to appear before the committee and testify, 174

answer questions asked by members of the committee, and produce 175
information in the possession of the agency as requested by the 176
committee, concerning the expected effect of the proposed rule, if 177
adopted, upon individuals, small businesses, or small 178
organizations. Upon receipt of a request from the chairperson of 179
the appropriate standing committee of the senate or house of 180
representatives under division (B)(3)(b) of this section, the 181
agency shall designate an officer or employee of the agency to 182
appear before the committee, and shall otherwise comply with the 183
request, in the manner directed by the request. 184

(4) The agency shall not proceed to file the proposed rule in 185
final form until it has considered any comments timely submitted 186
to it under division (B)(3)(a) of this section, has identified the 187
issues raised by the comments, has assessed the proposed rule in 188
light of the issues raised by the comments, and has made such 189
revisions in the proposed rule as it considers advisable in light 190
of its assessment. 191

An agency is not required to put any revised version of a 192
proposed rule through the procedure of divisions (B)(1) to (4) of 193
this section. 194

(C) Any original version of a proposed rule, rule summary and 195
fiscal analysis, or written comment filed or submitted under 196
division (B) of this section shall be preserved by the agency with 197
which it is filed or to which it is submitted, and is a public 198
record open to public inspection. 199

(D) Each agency shall prepare a plan that provides for the 200
periodic review, at least once every five years, of each rule of 201
the agency that is not otherwise subject to review under section 202
119.032 of the Revised Code and that affects individuals, small 203
businesses, or small organizations. The purpose of each periodic 204
review shall be to determine whether the rule that is being 205
reviewed should be continued without change or amended or 206

rescinded, consistent with the purpose, scope, and intent of the 207
applicable statute authorizing adoption of the rule, so as to 208
minimize the economic impact of the rule upon individuals, small 209
businesses, or small organizations. Accordingly, in making each 210
periodic review of a rule, the agency shall consider the continued 211
need for the rule, the nature of any written complaints or 212
comments that the agency has received with regard to the rule, the 213
extent to which the rule duplicates, overlaps, or conflicts with 214
other currently effective rules, and the degree to which 215
technology, economic conditions, and other relevant factors have 216
changed in the area affected by the rule. 217

Each agency shall annually report to the governor and general 218
assembly, with regard to each of its rules that have been reviewed 219
under this division during the preceding calendar year, the title 220
and administrative code rule number of the rule, a brief summary 221
of the content and operation of the rule, and a brief summary of 222
the results of the review. If the agency is otherwise required to 223
make an annual report to the governor and general assembly, the 224
agency shall report this information in an appropriately 225
designated section of its annual report, whether its annual report 226
is in print or electronic form or both. If, however, the agency is 227
not otherwise required to make an annual report to the governor 228
and general assembly, the agency, on or before the first day of 229
February, shall report this information in a separate report, in 230
~~electronic~~ electronic form, to the governor and general assembly. 231
In addition to the submissions required by section 101.68 of the 232
Revised Code, and in addition to any requirement of that section 233
to submit notice of the availability of a report instead of copies 234
of the report, the agency shall submit its annual or separate 235
report in electronic form, which provides the information required 236
by this division, to the chairpersons of the standing committees 237
of the senate and house of representatives having jurisdiction 238
over individuals, small businesses, and small organizations. 239

Each agency having rules in effect on January 1, 1985, that affect individuals, small businesses, or small organizations shall divide those rules into groups, so that at least one-fifth of those rules are reviewed during each year of a five-year period commencing on January 1, 1985. A rule that is newly adopted after January 1, 1985, shall be reviewed five years after its effective date. When a rule has once been reviewed, it shall thereafter be reviewed again at five-year intervals.

(E) Each agency shall designate an individual or office within the agency to be responsible for complying with this division. Each individual or office that has been so designated shall, within ten days after receiving a request therefor from any person:

(1) Provide the person with copies of any rule proposed by the agency that would affect individuals, small businesses, or small organizations;

(2) Provide the person with copies of the rule summary and fiscal analysis of any rule proposed by the agency that would affect individuals, small businesses, or small organizations; or

(3) Find, collate, and make available to the person any information in the possession of the agency regarding a rule proposed by the agency, which information would be of interest to individuals, small businesses, or small organizations.

The agency shall inform the ~~office of~~ entrepreneurship and small business division in writing of the name, address, and telephone number of each individual or office designated under this division. The agency shall promptly inform the ~~office of~~ entrepreneurship and small business division in writing of any change in the information thus provided.

(F) Division (B) 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, except that 271
the emergency rule becomes subject to such division when it is 272
adopted pursuant to the procedure of section 111.15 or 119.03 of 273
the Revised Code for the adoption of rules not of an emergency 274
nature. 275

(G) The department of taxation shall provide a copy of the 276
full text of any rule proposed by the department that may affect 277
any business in electronic form to the ~~office of~~ entrepreneurship 278
and small business division, and the department shall designate an 279
office within the agency responsible for providing a copy of any 280
such rule within ten days of receiving a request from any person. 281

Sec. 121.81. As used in sections 121.81 and 121.811 to 282
121.815 of the Revised Code: 283

(A) "Rule" means the adoption of a new rule or the amendment 284
or rescission of an existing rule. "Rule" does not include an 285
emergency rule, but does include a rule that is to replace an 286
emergency rule upon its expiration. 287

(B) A "small business" is an independently owned and operated 288
for-profit or nonprofit business entity, including affiliates, and 289
regardless of legal form, that has fewer than four hundred 290
employees. 291

(C) A "state agency" is a discrete unit that is organized as 292
a part of, and that carries out one or more functions of, state 293
government and that is authorized or required by statute to adopt 294
rules. "State agency" does not include the elected state officers 295
or their offices, the general assembly or any legislative agency, 296
or the courts or any judicial agency. 297

Sec. 121.811. Sections 121.81 and 121.812 to 121.815 of the 298
Revised Code are the Common Sense Regulation Act. 299

Sec. 121.812. (A) On and after July 1, 2011, in the course of 300
developing a rule for proposal and adoption, and in any event 301
before proposing the rule by filing it under divisions (D) and (E) 302
of section 111.15 or divisions (B) and (H) of section 119.03 of 303
the Revised Code, or when reviewing a rule under section 119.032 304
of the Revised Code, a state agency shall evaluate the rule in 305
light of each of the following considerations: 306

(1) Whether the rule is necessary to give effect to the 307
statute that underlies the rule; 308

(2) Whether the rule unnecessarily duplicates a federal 309
regulation or the rules of the state agency or of another state 310
agency; 311

(3) Whether the state agency has notified all interested 312
persons who have registered through the centralized electronic 313
system for regulatory notification to receive notice that the 314
agency is developing and drafting the rule for proposal and 315
adoption, and whether the state agency has afforded those persons 316
an opportunity to comment to the state agency concerning the 317
substance and the drafting of the rule; 318

(4) Whether the rule is drafted so that its desired outcome 319
will be achieved, and whether the desired outcome of the rule is 320
based on the best information, including scientific and technical 321
data, that reasonably can be obtained; 322

(5) Whether the rule will be understandable to the persons to 323
whom the rule is addressed; 324

(6) Whether the rule can be applied consistently by the state 325
agency to the persons who will be affected by the rule; 326

(7) Whether, when achieving its underlying regulatory 327
objectives, the rule is a reasonable balance between its 328
underlying regulatory objectives and the regulatory burden it 329

imposes; 330

(8) Whether it would be advisable for the rule to expire on a specific future date. 331
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(B) The state agency shall prepare a report of its evaluation of the rule. The director of administrative services shall prescribe the form of the report, designing the form so that it will elicit from a state agency when the form is completed whether the state agency has evaluated a rule in light of all the considerations listed in divisions (A)(1) to (8) of this section. The form in addition shall require the state agency to explain the following in particular: 333
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(1) If the rule is duplicative, why the duplication is necessary; 341
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(2) If the state agency has not notified all interested persons who have registered through the centralized electronic system for regulatory notification to receive notice that the agency is developing and drafting the rule for proposal and adoption, why this is the case; and 343
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(3) If the rule, when achieving its regulatory objectives, is not a reasonable balance between its underlying regulatory objectives and the regulatory burden it imposes, why this is the case. 348
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If an existing rule is reviewed under section 119.032 of the Revised Code, but not changed, the state agency may include in the report the reason why the rule was left unchanged. 352
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(C) The head of the state agency or the state agency's chief legal officer shall review the rule and the report for clarity to ensure the state agency has made a good faith effort to evaluate the rule in light of the considerations. The state agency's report shall indicate whether the head of the state agency or the state agency's chief legal officer has completed this review. 355
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(D) The state agency shall transmit a copy of its report 361
electronically to the director of administrative services or the 362
director's designee. The director or the director's designee shall 363
publish a summary of the report on the web site of the centralized 364
electronic system for regulatory notification. 365

Sec. 121.813. The director of administrative services, not 366
later than July 1, 2011, shall establish, and thereafter shall 367
maintain and improve, a centralized electronic system for 368
regulatory notification that: 369

(A) Enables interested persons to register to receive notices 370
and other information from a state agency concerning a rule that 371
the state agency is developing and drafting; 372

(B) Enables the director to publish on the system summaries 373
of reports the director receives under section 121.812 of the 374
Revised Code; and 375

(C) Enables interested persons to register to receive notices 376
of semiannual meetings that are to be convened under section 377
121.814 of the Revised Code. 378

The director shall design the centralized electronic system 379
for regulatory notification so that it enables interested persons 380
to comment electronically on agency regulatory processes. 381

The centralized electronic system for regulatory notification 382
is complementary to the register of Ohio. The director of the 383
legislative service commission and the director of administrative 384
services shall consult with each other and link the centralized 385
electronic system for regulatory notification and the register of 386
Ohio. 387

Sec. 121.814. (A) The director of administrative services or 388
the director's designee shall convene semiannual meetings, at 389
convenient times and locations, at which interested persons may 390

comment on agency regulatory processes that are causing 391
unreasonable impediments to the efficient and successful operation 392
of small businesses. The small business advocate shall attend and 393
participate in each semiannual meeting. Comments at a semiannual 394
meeting may be recorded. 395

The director or the director's designee shall transmit notice 396
of a semiannual meeting, at least one month in advance of the 397
meeting, to interested persons who have registered to receive 398
notices of the meetings through the centralized electronic system 399
for regulatory notification. 400

(B) Based on comments made at each semiannual meeting, the 401
director or the director's designee shall prepare a priority 402
schedule identifying agency processes that are causing 403
unreasonable impediments to the efficient and successful operation 404
of small businesses, and identifying innovative management tools, 405
such as kaizen, value stream mapping, networking, and root cause 406
analysis, that a state agency might bring to bear to reduce or 407
eliminate these impediments. In identifying agency processes that 408
are causing unreasonable impediments, the director or the 409
director's designee particularly shall take account of state 410
agency processes that derogate the considerations listed in 411
section 121.812 of the Revised Code. 412

The director or the director's designee shall transmit a copy 413
of the priority schedule to each state agency that is identified 414
in the priority schedule, and shall monitor the efforts state 415
agencies are making to reduce or eliminate impediments identified 416
in the priority schedule. Each state agency identified in a 417
priority schedule shall make efforts to reduce or eliminate the 418
identified impediments and any other impediments it may discover. 419
At each semiannual meeting after the first, the director or the 420
director's designee shall report to those in attendance on the 421
progress state agencies are making at reducing or eliminating 422

previously identified impediments to the efficient and successful 423
operation of small businesses. 424

The director or the director's designee shall post the 425
priority schedule on the web site of the centralized electronic 426
system for regulatory notification. 427

Sec. 121.815. The directors of each of the following state 428
agencies shall appoint an ombudsperson: the departments of 429
administrative services, agriculture, commerce, development, 430
health, insurance, job and family services, natural resources, 431
taxation, and transportation, the environmental protection agency, 432
the industrial commission, and the bureau of workers' 433
compensation. The ombudsperson shall report to, and is entitled to 434
have regular direct access to and the attention of, the director 435
or other head of the state agency. 436

An ombudsperson shall serve as a problem-solving liaison 437
between the state agency and those who are affected by its rules 438
and regulatory processes when normal state agency processes do not 439
produce a satisfactory result. A small business also may request 440
the small business advocate to assist when normal state agency 441
processes do not produce a satisfactory result. The ombudsperson 442
or small business advocate may not, however, become involved with 443
resolving matters that are the subject of an ongoing judicial or 444
administrative enforcement action. 445

If the ombudsperson, with or without the assistance of the 446
small business advocate, is unable to resolve a matter, the 447
ombudsperson may call upon the governor's designee to assist in 448
resolving the matter. The governor's designee shall assist in a 449
neutral way to resolve the matter. The governor's designee shall 450
identify options, and strategies and tactics, for resolving the 451
matter, but may not impose a resolution or make or reverse legal 452
decisions to resolve the matter. 453

A state agency named in this section shall publish on its web site the name, address, telephone number, and e-mail address of its ombudsperson, together with a brief explanation of the ombudsperson's role in resolving matters. 454
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An ombudsperson shall consult with the small business advocate and negotiate arrangements to facilitate mutual interaction and avoid duplication of effort. 458
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Sec. 121.82. (A) As used in this section, "department" means the several departments of state administration enumerated in section 121.02 of the Revised Code. 461
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(B)(1) It is the policy of this state to improve the customer service provided by departments. Each department shall emphasize improved customer service, efficiency, and productivity in employee orientation and employee training. In light of this policy, not later than January 1, 2012, each department, with the assistance of the department of administrative services, shall adopt customer service principles identifying the best practices to be used to provide improved customer service. 464
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(2) Not later than January 1, 2012, each department, with the assistance of the department of administrative services, shall develop a customer service training program that employees designated by the department can complete to improve customer service, efficiency, and productivity. The customer service training program shall emphasize the customer service principles adopted by the department. 472
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(C) Each employee who participates in a customer service training program, upon completion of the program, shall sign a written statement acknowledging that the employee understands the customer service principles adopted by the department and will follow them. 479
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(D) On its web site, each department shall: 484

(1) In a frequently-asked-question format, post answers to 485
frequently asked questions about the department's regulatory 486
mission and processes; and 487

(2) Include a customer service survey that users may complete 488
online, or download, complete, and e-mail to the department. 489

A department shall review all customer service surveys that 490
are completed and returned to the department, and may send the 491
surveys to the governor or the governor's designee. 492

Sec. 122.08. (A) There is hereby created within the 493
department of development ~~an office~~ a division to be known as the 494
~~office of~~ entrepreneurship and small business division. The ~~office~~ 495
division shall be under the supervision of a manager appointed by 496
the director of development. The manager shall be known as the 497
small business advocate. 498

(B) The ~~office~~ division shall do all of the following: 499

(1) Act as liaison facilitating interactions between the 500
small business community and state governmental agencies; 501

(2) Furnish information and technical assistance to persons 502
and small businesses concerning the establishment and maintenance 503
of a small business, and concerning state laws and rules relevant 504
to the operation of a small business. In conjunction with these 505
duties, the ~~office~~ division shall keep a record of all state 506
agency rules affecting individuals, small businesses, or small 507
organizations, as defined in section 121.24 of the Revised Code, 508
and may testify before the joint committee on agency rule review 509
concerning any proposed rule affecting individuals, small 510
businesses, or small organizations. 511

(3) Prepare and publish the small business register under 512
section 122.081 of the Revised Code; 513

(4) Receive complaints from small businesses concerning 514
governmental activity, compile and analyze those complaints, and 515
periodically make recommendations to the governor and the general 516
assembly on changes in state laws or agency rules needed to 517
eliminate burdensome and unproductive governmental regulation to 518
improve the economic climate within which small businesses 519
operate; 520

(5) Receive complaints or questions from small businesses and 521
direct those businesses to the appropriate governmental agency. 522
If, within a reasonable period of time, a complaint is not 523
satisfactorily resolved or a question is not satisfactorily 524
answered, the ~~office~~ division shall, on behalf of the small 525
business, make every effort to secure a satisfactory result. For 526
this purpose, the ~~office~~ division may consult with any state 527
governmental agency and may make any suggestion or request that 528
seems appropriate. 529

(6) Utilize, to the maximum extent possible, the printed and 530
electronic media to disseminate information of current concern and 531
interest to the small business community and to make known to 532
small businesses the services available through the ~~office~~ 533
division. The ~~office~~ division shall publish such books, pamphlets, 534
and other printed materials, and shall participate in such trade 535
association meetings, conventions, fairs, and other meetings 536
involving the small business community, as the ~~manager~~ small 537
business advocate considers appropriate. 538

(7) Prepare for inclusion in the department of development's 539
annual report to the governor and general assembly, a description 540
of the activities of the ~~office~~ division and a report of the 541
number of rules affecting individuals, small businesses, and small 542
organizations that were filed with the ~~office~~ division under 543
division (B)(2) of section 121.24 of the Revised Code, during the 544
preceding calendar year; 545

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

(9) Establish and maintain a toll-free telephone number persons may call during regular business hours, and an e-mail address to which persons may transmit e-mail at any time, to comment to the small business advocate concerning statutes and rules and state agency processes affecting individuals, small businesses, and small organizations. The telephone answering point shall be equipped to record calls that are received after regular business hours.

(10) Consult with each ombudsperson appointed under section 121.815 of the Revised Code and negotiate arrangements to facilitate mutual interaction and avoid duplication of effort.

(C) The ~~office~~ division may, upon the request of a state agency, assist the agency with the preparation of any rule that will affect individuals, small businesses, or small organizations.

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

Sec. 122.081. (A) The ~~office of~~ entrepreneurship and small business division 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~~ 577
entrepreneurship and small business division under division (B)(2) 578
of section 121.24 of the Revised Code: 579

(1) The title and administrative code rule number of the 580
proposed rule; 581

(2) A brief summary of the proposed rule; 582

(3) The date on which the proposed rule was filed with the 583
~~office of~~ entrepreneurship and small business division under 584
division (B)(2) of section 121.24 of the Revised Code; and 585

(4) The name, address, and telephone number of the individual 586
or office within the agency that proposed the rule who has been 587
designated as being responsible for complying with division (E) of 588
section 121.24 of the Revised Code with regard to the proposed 589
rule. 590

(B) The small business register shall be published on a 591
weekly basis. The information required under division (A) of this 592
section shall be published in the register no later than two weeks 593
after the proposed rule to which the information relates is filed 594
with the ~~office of~~ entrepreneurship and small business division 595
under division (B)(2) of section 121.24 of the Revised Code. The 596
~~office of~~ entrepreneurship and small business division shall 597
furnish the small business register, on a single copy or 598
subscription basis, to any person who requests it and pays a 599
single copy price or subscription rate fixed by the ~~office~~ 600
division. The ~~office~~ division shall furnish the ~~chairmen~~ 601
chairpersons of the standing committees of the senate and house of 602
representatives having jurisdiction over individuals, small 603
businesses, and small organizations with free subscriptions to the 604
small business register. 605

(C) Upon the request of the ~~office of~~ entrepreneurship and 606
small business division, the director of administrative services 607

shall, in accordance with the competitive selection procedure of 608
Chapter 125. of the Revised Code, let a contract for the 609
compilation, printing, and distribution of the small business 610
register. 611

(D) The ~~office of~~ entrepreneurship and small business 612
division shall adopt, and may amend or rescind, in accordance with 613
Chapter 119. of the Revised Code, such rules as are necessary to 614
enable it to properly carry out this section. 615

Sec. 122.084. The entrepreneurship and small business 616
division shall establish the Ohio small business panel. The Ohio 617
small business panel shall meet semiannually to discuss issues 618
relevant to small businesses, including matters such as the 619
special challenges involved in establishing and in efficiently and 620
successfully operating a small business and the statutes and rules 621
and state agency processes that are involved in or relate to the 622
operation of small businesses. As a result of its discussions, the 623
panel may make recommendations for changes in statutes and rules 624
and in state agency processes that are needed to reduce or 625
eliminate burdensome or unproductive governmental regulation to 626
improve the economic climate within which small businesses 627
operate. 628

The panel may report its recommendations, together with 629
supporting commentary, in a communique. The small business 630
advocate may transmit the communique electronically to the 631
governor, the general assembly, and each state agency to which the 632
recommendations apply. 633

The Ohio small business panel shall consist of the small 634
business advocate and four members appointed by the governor, two 635
members appointed by the president of the senate, and two members 636
appointed by the speaker of the house of representatives. Each 637
member shall be representative of the small business community. 638

Initial appointments to the panel shall be made on or before July 1, 2011. Members of the panel shall serve without compensation and without reimbursement for expenses. 639
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The terms of office of all members of the panel, except the small business advocate, 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 panel 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 term of office for the small business advocate shall be for the entirety of the advocate's employment as the small business advocate. 642
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The small business advocate shall be the chairperson of the panel, and shall appoint a secretary from among the panel's members. 652
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Five members of the panel constitute a quorum, and the affirmative vote of five members is necessary for any action taken by the panel. 655
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Sec. 127.18. (A) As used in this section: 658

(1) "Rule-making agency" has the same meaning as in division (I) of section 119.01 of the Revised Code. 659
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(2) "Rule" includes the adoption, amendment, or rescission of a rule. 661
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(3) "Proposed rule" means the original version of a proposed rule, and each revised version of the same proposed rule, that is filed with the joint committee on agency rule review under division (D) of section 111.15 or division (H) of section 119.03 of the Revised Code. 663
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(B) A rule-making agency shall prepare, in the form 668

prescribed by the joint committee on agency rule review under 669
division (E) of this section, a complete and accurate rule summary 670
and fiscal analysis of each proposed rule that it files under 671
division (D) of section 111.15 or division (H) of section 119.03 672
of the Revised Code. A rule-making agency, when completing the 673
rule summary and fiscal analysis, is encouraged to identify and 674
estimate the number of businesses subject to the proposed rule. 675
The rule summary and fiscal analysis shall include all of the 676
following information: 677

(1) The name, address, and telephone number of the 678
rule-making agency, and the name and telephone number of an 679
individual or office within the agency designated by that agency 680
to be responsible for coordinating and making available 681
information in the possession of the agency regarding the proposed 682
rule; 683

(2) The Ohio Administrative Code rule number of the proposed 684
rule; 685

(3) A brief summary of, and the legal basis for, the proposed 686
rule, including citations identifying the statute that prescribes 687
the procedure in accordance with which the rule-making agency is 688
required to adopt the proposed rule, the statute that authorizes 689
the agency to adopt the proposed rule, and the statute that the 690
agency intends to amplify or implement by adopting the proposed 691
rule; 692

(4) An estimate, in dollars, of the amount by which the 693
proposed rule would increase or decrease revenues or expenditures 694
during the current biennium; 695

(5) A citation identifying the appropriation that authorizes 696
each expenditure that would be necessitated by the proposed rule; 697

(6) A summary of the estimated cost of compliance with the 698
rule to all directly affected persons; 699

(7) The reasons why the rule is being proposed;	700
(8) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations, an estimate in dollars of the cost of compliance with the rule, or, if dollar amounts cannot be determined, a written explanation of why it was not possible to ascertain dollar amounts;	701 702 703 704 705
(9) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations and is the result of a federal requirement, a clear explanation that the proposed state rule does not exceed the scope and intent of the requirement, or, if the state rule does exceed the minimum necessary federal requirement, a justification of the excess cost, and an estimate of the costs, including those costs for local governments, exceeding the federal requirement;	706 707 708 709 710 711 712 713
(10) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations, a comprehensive cost estimate that includes the procedure and method of calculating the costs of compliance and identifies major cost categories including personnel costs, new equipment or other capital costs, operating costs, and indirect central service costs related to the rule. The fiscal analysis shall also include a written explanation of the agency's and the affected local government's ability to pay for the new requirements and a statement of any impact the rule will have on economic development.	714 715 716 717 718 719 720 721 722 723 724
(11) If the rule incorporates a text or other material by reference, and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is generally available to persons who reasonably can be expected to be affected by the rule, an explanation of how the text or other material is generally available to those persons;	725 726 727 728 729 730 731

(12) If the rule incorporates a text or other material by reference, and it was infeasible for the agency to file the text or other material electronically, an explanation of why filing the text or other material electronically was infeasible;

(13) If the rule is being rescinded and incorporates a text or other material by reference, and it was infeasible for the agency to file the text or other material, an explanation of why filing the text or other material was infeasible;

(14) Any other information the joint committee on agency rule review considers necessary to make the proposed rule or the fiscal effect of the proposed rule fully understandable.

The rule summary and fiscal analysis also shall include a box the rule-making agency can check to indicate that it has evaluated the rule under section 121.812 of the Revised Code and that its report of the evaluation was reviewed by the head of the state agency or the state agency's chief legal officer. Failure to evaluate a rule under that section and to check the box constitutes only failure to prepare a complete and accurate rule summary and fiscal analysis under division (I)(1)(d) of section 119.03 of the Revised Code.

(C) The rule-making agency shall file the rule summary and fiscal analysis in electronic form along with the proposed rule that it files under divisions (D) and (E) of section 111.15 or divisions (B) and (H) of section 119.03 of the Revised Code. The joint committee on agency rule review shall not accept any proposed rule for filing unless a copy of the rule summary and fiscal analysis of the proposed rule, completely and accurately prepared, is filed along with the proposed rule.

(D) The joint committee on agency rule review shall review the fiscal effect of each proposed rule that is filed under division (D) of section 111.15 or division (H) of section 119.03

of the Revised Code. 763

(E) The joint committee on agency rule review shall prescribe 764
the form in which each rule-making agency shall prepare its rule 765
summary and fiscal analysis of a proposed rule. 766

(F) This section does not require the auditor of state or the 767
auditor of state's designee to prepare or attach a rule summary 768
and fiscal analysis to any copy of a rule proposed under section 769
117.12, 117.19, 117.38, or 117.43 of the Revised Code. 770

Sec. 3745.016. (A) As used in this section, "small business" 771
means: 772

(1) A "small business stationary source" as defined in 773
section 3704.01 of the Revised Code; or 774

(2) If the business does not have a source of an air 775
pollutant, an independently owned or operated business having one 776
hundred or fewer employees. 777

(B) The director of environmental protection shall establish, 778
as part of the environmental protection agency, a program for 779
providing environmental regulatory compliance assistance to small 780
businesses. The program shall: 781

(1) Provide environmental regulatory compliance assistance, 782
including on-site environmental regulatory compliance assistance, 783
upon the request of a small business, to assist the small business 784
in identifying relevant environmental regulations and compliance 785
requirements and in completing application and reporting forms 786
relating to environmental regulatory requirements; 787

(2) Develop educational materials for small businesses 788
regarding state and federal environmental regulatory compliance 789
requirements, and distribute the materials to them free of charge; 790

(3) Reach out to small businesses and provide them with 791
training on state and federal environmental regulatory compliance 792

requirements free of charge; and 793

(4) Provide other environmental regulatory compliance 794
assistance to small businesses that will help to improve their 795
compliance with environmental regulation and thereby help to 796
improve the overall cleanliness of Ohio's environment. 797

(C) Any information, regardless of its form or 798
characteristics, that is created or obtained by the environmental 799
protection agency in the course of administering the environmental 800
regulatory compliance assistance program that identifies or 801
describes an individual facility or operation at a small business 802
is confidential and not a public record open to public inspection 803
unless: 804

(1) The information reveals a clear and immediate danger to 805
the environment and the health, safety, or welfare of the public; 806

(2) The information is obtained independently by the director 807
of environmental protection or authorized employees or agents of 808
the environmental protection agency as part of a compliance 809
inspection or investigation or in a judicial or administrative 810
enforcement proceeding; or 811

(3) The information is emissions data or otherwise pertains 812
to a contaminant source, and treating the information as 813
confidential would be inconsistent with the requirements of law. 814

Information that is confidential under this division may not 815
be used in any manner for purposes of the enforcement of any 816
environmental compliance requirement or as evidence in any 817
judicial or administrative enforcement proceeding. This paragraph 818
does not confer immunity on a small business from judicial or 819
administrative enforcement that is based upon information obtained 820
by the director of environmental protection or employees or agents 821
of the environmental protection agency, insofar as they are not 822
engaged in administering the environmental regulatory compliance 823

assistance program. 824

Section 2. That existing sections 103.051, 103.0511, 121.24, 825
122.08, 122.081, and 127.18 of the Revised Code are hereby 826
repealed. 827

Section 3. This act includes amendments re-naming and 828
re-characterizing the Office of Small Business as the 829
Entrepreneurship and Small Business Division. These amendments do 830
not otherwise affect the organization or the organizational 831
position of the office-now-division as part of the Department of 832
Development. Other amendments pertaining to the 833
office-now-division affect its functions. 834