

**As Introduced**

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

**S. B. No. 2**

**Senator Hughes**

—

**A BILL**

To amend sections 103.0511, 111.15, 117.20, 119.03, 121.39, 122.08, 122.081, 122.94, and 1710.02; to enact sections 108.11, 108.12, 108.13, 108.21, 108.22, 108.23, 121.81, 121.82, 121.83, and 121.91; and to repeal section 121.24 of the Revised Code to adopt a new small business rule review procedure. 1  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 103.0511, 111.15, 117.20, 119.03, 121.39, 122.08, 122.081, 122.94, and 1710.02 be amended and that sections 108.11, 108.12, 108.13, 108.21, 108.22, 108.23, 121.81, 121.82, 121.83, and 121.91 of the Revised Code be enacted to read as follows: 8  
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**Sec. 103.0511.** The director of the legislative service commission shall establish and maintain, and enhance and improve, an electronic rule-filing system connecting: 13  
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(A) The legislative service commission, the joint committee on agency rule review, and the secretary of state, ~~and the office of small business;~~ 16  
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(B) The governor, the senate and house of representatives, and the clerks of the senate and house of representatives; 19  
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(C) Each agency that files rules and other rule-making and rule-related documents with the legislative service commission, the joint committee on agency rule review, the governor, the secretary of state, ~~the office of small business~~, 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) The common sense initiative office; and

(F) 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. 108.11. As used in sections 108.11 to 108.13 of the Revised Code, "proposed rule" and "small business" have the meanings defined in section 121.81 of the Revised Code.

Sections 108.11 to 108.13 and 108.21 to 108.23 of the Revised Code are complementary to sections 121.81 to 121.83 of the Revised Code.

Sec. 108.12. A proposed rule that affects small businesses has an adverse impact on small businesses if a provision of the proposed rule that applies to small businesses has any of the following effects:

(A) It requires a license, permit, or any other prior authorization to engage in or operate a line of business;

(B) It imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action, for failure to comply with its terms; 50  
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(C) It requires the report of information as a condition of compliance; or 53  
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(D) It otherwise requires a small business to spend time or make expenditures that are not directly related to its business operations. 55  
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**Sec. 108.13. The common sense initiative office shall develop, and as it becomes necessary or advisable shall improve, a small business impact analysis instrument that shall be used as required by law to evaluate proposed rules that might have an adverse impact on small businesses. The instrument shall be in writing, and shall include the following:** 58  
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(A) Standards that encourage agencies to draft proposed rules, and proposed revisions thereto, in such a manner that the rules will be as easy to understand as their subject matter permits; 64  
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(B) Performance measures that can be applied to evaluate the likely efficiency and effectiveness of a proposed rule in achieving its regulatory objectives; 68  
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(C) Standards for evaluating alternative means of regulation that might reduce or eliminate the adverse impact a proposed rule might have on small businesses; 71  
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(D) Standards that will promote transparency, predictability, consistency, and flexibility in the implementation and operation of a proposed rule, as well as an overall favorable balance in a proposed rule between its regulatory objectives and the costs of compliance it imposes on regulated persons; 74  
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(E) Standards that require an agency to encourage small 79

businesses that might be adversely impacted by a proposed rule to 80  
participate in the rule-making process, beginning at the earliest 81  
practicable stage, and that will encourage small businesses that 82  
are or may be adversely impacted by a proposed rule to offer 83  
advice and assistance to the agency when the proposed rule is 84  
adopted and is being implemented and administered; and 85

(F) Any other standards or measures, or any other criteria, 86  
the office concludes will reduce or eliminate adverse impacts on 87  
small businesses and foster improved regulation and economic 88  
development in the state. 89

Alternative means of regulation include, and are not limited 90  
to, less stringent compliance or reporting requirements, less 91  
stringent schedules or deadlines, consolidation or simplification 92  
of requirements, establishment of performance standards to replace 93  
operational standards, and exemption of small businesses. 94

The instrument does not need to be adopted as a rule. The 95  
office shall publish the current instrument in the register of 96  
Ohio. 97

**Sec. 108.21.** The common sense initiative office is 98  
established within the office of the lieutenant governor. The 99  
lieutenant governor shall organize, and as it becomes necessary or 100  
advisable may re-organize, the office. The lieutenant governor 101  
shall appoint professional, technical, and clerical personnel who 102  
are necessary if the work of the office is to be carried out 103  
efficiently and successfully. The employees are in the 104  
unclassified service and serve at the pleasure of the lieutenant 105  
governor. The lieutenant governor shall provide the office with 106  
office space, and with furnishings, equipment, and resources, as 107  
is necessary if the work of the office is to be carried out 108  
efficiently and successfully. References in law authorizing or 109  
requiring action by the "common sense initiative office" imply 110

action being taken by relevant personnel of the office. 111

Sec. 108.22. The common sense initiative office shall 112  
establish a system through which any person may comment 113  
concerning: 114

(A) The adverse impact on small businesses a proposed rule 115  
might have; 116

(B) The adverse impact on small businesses that a rule 117  
currently in effect is having; or 118

(C) The adverse impact on small businesses the implementation 119  
or administration of a rule currently in effect is having. 120

The office shall prepare a plan for the comment system, and 121  
shall revise or replace the plan to improve the comment system in 122  
light of learning, experience, or technological development. The 123  
office shall publish the current plan for the comment system in 124  
the register of Ohio. 125

At a minimum, the plan for the comment system shall provide 126  
for communication of comments as follows: The office shall accept 127  
comments in writing that are delivered to the office personally, 128  
by mail, or by express. The office shall establish a toll-free 129  
telephone number that a person may call to offer comments. (The 130  
telephone number shall be connected to a recording device at its 131  
answering point.) And the office shall create a web site that 132  
enables a person to offer comments electronically. 133

The office shall forward written, telephoned, and 134  
electronically transmitted comments to the state agency having 135  
jurisdiction over the rule. The office has no other duty with 136  
regard to the comments. 137

Sec. 108.23. The common sense initiative office, in 138  
consultation with the director of administrative services, shall 139

develop, and as it becomes necessary or advisable may improve, 140  
customer service performance standards for state agencies and 141  
their officers and employees. The office shall address the 142  
standards specifically to the several state agencies as they 143  
function as part of state government, and to the several positions 144  
held by a state agency's officers and employees. The office shall 145  
base the standards pertaining to officers and employees on the job 146  
descriptions of the positions they hold in the state agency. The 147  
office is not required to adopt the standards by rule. 148

The office shall reduce the standards to writing, and shall 149  
transmit a copy of the standards that pertain to a state agency 150  
and its officers and employees to the director or other head of 151  
the state agency. The office also shall publish the current 152  
standards in the register of Ohio. 153

**Sec. 111.15.** (A) As used in this section: 154

(1) "Rule" includes any rule, regulation, bylaw, or standard 155  
having a general and uniform operation adopted by an agency under 156  
the authority of the laws governing the agency; any appendix to a 157  
rule; and any internal management rule. "Rule" does not include 158  
any guideline adopted pursuant to section 3301.0714 of the Revised 159  
Code, any order respecting the duties of employees, any finding, 160  
any determination of a question of law or fact in a matter 161  
presented to an agency, or any rule promulgated pursuant to 162  
Chapter 119., section 4141.14, division (C)(1) or (2) of section 163  
5117.02, or section 5703.14 of the Revised Code. "Rule" includes 164  
any amendment or rescission of a rule. 165

(2) "Agency" means any governmental entity of the state and 166  
includes, but is not limited to, any board, department, division, 167  
commission, bureau, society, council, institution, state college 168  
or university, community college district, technical college 169  
district, or state community college. "Agency" does not include 170

the general assembly, the controlling board, the adjutant 171  
general's department, or any court. 172

(3) "Internal management rule" means any rule, regulation, 173  
bylaw, or standard governing the day-to-day staff procedures and 174  
operations within an agency. 175

(4) "Substantive revision" has the same meaning as in 176  
division (J) of section 119.01 of the Revised Code. 177

(B)(1) Any rule, other than a rule of an emergency nature, 178  
adopted by any agency pursuant to this section shall be effective 179  
on the tenth day after the day on which the rule in final form and 180  
in compliance with division (B)(3) of this section is filed as 181  
follows: 182

(a) The rule shall be filed in electronic form with both the 183  
secretary of state and the director of the legislative service 184  
commission; 185

(b) The rule shall be filed in electronic form with the joint 186  
committee on agency rule review. Division (B)(1)(b) of this 187  
section does not apply to any rule to which division (D) of this 188  
section does not apply. 189

An agency that adopts or amends a rule that is subject to 190  
division (D) of this section shall assign a review date to the 191  
rule that is not later than five years after its effective date. 192  
If no review date is assigned to a rule, or if a review date 193  
assigned to a rule exceeds the five-year maximum, the review date 194  
for the rule is five years after its effective date. A rule with a 195  
review date is subject to review under section 119.032 of the 196  
Revised Code. This paragraph does not apply to a rule of a state 197  
college or university, community college district, technical 198  
college district, or state community college. 199

If all filings are not completed on the same day, the rule 200  
shall be effective on the tenth day after the day on which the 201

latest filing is completed. If an agency in adopting a rule 202  
designates an effective date that is later than the effective date 203  
provided for by division (B)(1) of this section, the rule if filed 204  
as required by such division shall become effective on the later 205  
date designated by the agency. 206

Any rule that is required to be filed under division (B)(1) 207  
of this section is also subject to division (D) of this section if 208  
not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or 209  
(8) of this section. 210

If a rule incorporates a text or other material by reference, 211  
the agency shall comply with sections 121.71 to 121.76 of the 212  
Revised Code. 213

(2) A rule of an emergency nature necessary for the immediate 214  
preservation of the public peace, health, or safety shall state 215  
the reasons for the necessity. The emergency rule, in final form 216  
and in compliance with division (B)(3) of this section, shall be 217  
filed in electronic form with the secretary of state, the director 218  
of the legislative service commission, and the joint committee on 219  
agency rule review. The emergency rule is effective immediately 220  
upon completion of the latest filing, except that if the agency in 221  
adopting the emergency rule designates an effective date, or date 222  
and time of day, that is later than the effective date and time 223  
provided for by division (B)(2) of this section, the emergency 224  
rule if filed as required by such division shall become effective 225  
at the later date, or later date and time of day, designated by 226  
the agency. 227

An emergency rule becomes invalid at the end of the ninetieth 228  
day it is in effect. Prior to that date, the agency may file the 229  
emergency rule as a nonemergency rule in compliance with division 230  
(B)(1) of this section. The agency may not refile the emergency 231  
rule in compliance with division (B)(2) of this section so that, 232  
upon the emergency rule becoming invalid under such division, the 233

emergency rule will continue in effect without interruption for 234  
another ninety-day period. 235

(3) An agency shall file a rule under division (B)(1) or (2) 236  
of this section in compliance with the following standards and 237  
procedures: 238

(a) The rule shall be numbered in accordance with the 239  
numbering system devised by the director for the Ohio 240  
administrative code. 241

(b) The rule shall be prepared and submitted in compliance 242  
with the rules of the legislative service commission. 243

(c) The rule shall clearly state the date on which it is to 244  
be effective and the date on which it will expire, if known. 245

(d) Each rule that amends or rescinds another rule shall 246  
clearly refer to the rule that is amended or rescinded. Each 247  
amendment shall fully restate the rule as amended. 248

If the director of the legislative service commission or the 249  
director's designee gives an agency notice pursuant to section 250  
103.05 of the Revised Code that a rule filed by the agency is not 251  
in compliance with the rules of the legislative service 252  
commission, the agency shall within thirty days after receipt of 253  
the notice conform the rule to the rules of the commission as 254  
directed in the notice. 255

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) 256  
of this section shall be recorded by the secretary of state and 257  
the director under the title of the agency adopting the rule and 258  
shall be numbered according to the numbering system devised by the 259  
director. The secretary of state and the director shall preserve 260  
the rules in an accessible manner. Each such rule shall be a 261  
public record open to public inspection and may be transmitted to 262  
any law publishing company that wishes to reproduce it. 263

(D) At least sixty-five days before a board, commission, department, division, or bureau of the government of the state files a rule under division (B)(1) of this section, it shall file the full text of the proposed rule in electronic form with the joint committee on agency rule review, and the proposed rule is subject to legislative review and invalidation under division (I) of section 119.03 of the Revised Code. If a state board, commission, department, division, or bureau makes a substantive revision in a proposed rule after it is filed with the joint committee, the state board, commission, department, division, or bureau shall promptly file the full text of the proposed rule in its revised form in electronic form with the joint committee. The latest version of a proposed rule as filed with the joint committee supersedes each earlier version of the text of the same proposed rule. Except as provided in division (F) of this section, a state board, commission, department, division, or bureau shall also 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, and along with a proposed rule in revised form, that is filed under this division. And, if a proposed rule has an adverse impact on small businesses, the state board, commission, department, division, or bureau also shall file the small business impact analysis in electronic form along with the proposed rule, or the proposed rule in revised form, that is filed under this division.

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

This division does not apply to any of the following:

(1) A proposed rule of an emergency nature;

(2) A rule proposed under section 1121.05, 1121.06, 1155.18, 1163.22, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341,

4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised Code;	296 297
(3) A rule proposed by an agency other than a board, commission, department, division, or bureau of the government of the state;	298 299 300
(4) A proposed internal management rule of a board, commission, department, division, or bureau of the government of the state;	301 302 303
(5) Any proposed rule that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a federally reimbursed program in this state, so long as the proposed rule contains both of the following:	304 305 306 307 308
(a) A statement that it is proposed for the purpose of complying with a federal law or rule;	309 310
(b) A citation to the federal law or rule that requires verbatim compliance.	311 312
(6) An initial rule proposed by the director of health to impose safety standards and quality-of-care standards with respect to a health service specified in section 3702.11 of the Revised Code, or an initial rule proposed by the director to impose quality standards on a facility listed in division (A)(4) of section 3702.30 of the Revised Code, if section 3702.12 of the Revised Code requires that the rule be adopted under this section;	313 314 315 316 317 318 319
(7) A rule of the state lottery commission pertaining to instant game rules.	320 321
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	322 323 324 325

legislative review under division (D) of this section. 326

(E) Whenever a state board, commission, department, division, 327  
or bureau files a proposed rule or a proposed rule in revised form 328  
under division (D) of this section, it shall also file the full 329  
text of the same proposed rule or proposed rule in revised form in 330  
electronic form with the secretary of state and the director of 331  
the legislative service commission. Except as provided in division 332  
(F) of this section, a state board, commission, department, 333  
division, or bureau shall file the rule summary and fiscal 334  
analysis prepared under section ~~121.24~~ or 127.18 of the Revised 335  
Code, ~~or both,~~ in electronic form along with a proposed rule or 336  
proposed rule in revised form that is filed with the secretary of 337  
state or the director of the legislative service commission. 338

(F) Except as otherwise provided in this division, the 339  
auditor of state or the auditor of state's designee is not 340  
required to file a rule summary and fiscal analysis along with a 341  
proposed rule, or proposed rule in revised form, that the auditor 342  
of state proposes under section 117.12, 117.19, 117.38, or 117.43 343  
of the Revised Code and files under division (D) or (E) of this 344  
section. ~~If, however, the auditor of state or the designee 345  
prepares a rule summary and fiscal analysis of the original 346  
version of such a proposed rule for purposes of complying with 347  
section 121.24 of the Revised Code, the auditor of state or 348  
designee shall file the rule summary and fiscal analysis in 349  
electronic form along with the original version of the proposed 350  
rule filed under division (D) or (E) of this section.~~ 351

**Sec. 117.20.** (A) In adopting rules pursuant to Chapter 117. 352  
of the Revised Code, the auditor of state or the auditor of 353  
state's designee shall do both of the following: 354

(1) Before adopting any such rule, except a rule of an 355  
emergency nature, do each of the following: 356

(a) At least thirty-five days before any public hearing on 357  
the proposed rule-making action, mail notice of the hearing to 358  
each public office and to each statewide organization that the 359  
auditor of state or designee determines will be affected or 360  
represents persons who will be affected by the proposed 361  
rule-making action; 362

(b) Mail a copy of the proposed rule to any person or 363  
organization that requests a copy within five days after receipt 364  
of the request; 365

(c) Consult with appropriate state and local government 366  
agencies, or with persons representative of their interests, 367  
including statewide organizations of local government officials, 368  
and consult with accounting professionals and other interested 369  
persons; 370

(d) Conduct, on the date and at the time and place designated 371  
in the notice, a public hearing at which any person affected by 372  
the proposed rule, including statewide organizations of local 373  
government officials, may appear and be heard in person, by 374  
attorney, or both, and may present the person's or organization's 375  
position or contentions orally or in writing. 376

(2) Except as otherwise provided in division (A)(2) of this 377  
section, comply with divisions (B) to (E) of section 111.15 of the 378  
Revised Code. The auditor of state is not required to file a rule 379  
summary and fiscal analysis along with any copy of a proposed 380  
rule, or proposed rule in revised form, that is filed with the 381  
joint committee on agency rule review, the secretary of state, or 382  
the director of the legislative service commission under division 383  
(D) or (E) of section 111.15 of the Revised Code; ~~however, if the~~ 384  
~~auditor of state or the auditor of state's designee prepares a~~ 385  
~~rule summary and fiscal analysis of the original version of a~~ 386  
~~proposed rule for purposes of complying with section 121.24 of the~~ 387  
~~Revised Code, the auditor of state or designee shall file a copy~~ 388

~~of the rule summary and fiscal analysis in electronic form along 389  
with the original version of the proposed rule filed under 390  
division (D) or (E) of section 111.15 of the Revised Code. 391~~

(B) The auditor of state shall diligently discharge the 392  
duties imposed by divisions (A)(1)(a), (b), and (c) of this 393  
section, but failure to mail any notice or copy of a proposed 394  
rule, or to consult with any person or organization, shall not 395  
invalidate any rule. 396

(C) Notwithstanding any contrary provision of the Revised 397  
Code, the auditor of state may prepare and disseminate, to public 398  
offices and other interested persons and organizations, advisory 399  
bulletins, directives, and instructions relating to accounting and 400  
financial reporting systems, budgeting procedures, fiscal 401  
controls, and the constructions by the auditor of state of 402  
constitutional and statutory provisions, court decisions, and 403  
opinions of the attorney general. The bulletins, directives, and 404  
instructions shall be of an advisory nature only. 405

(D) As used in this section, "rule" includes the adoption, 406  
amendment, or rescission of a rule. 407

**Sec. 119.03.** In the adoption, amendment, or rescission of any 408  
rule, an agency shall comply with the following procedure: 409

(A) Reasonable public notice shall be given in the register 410  
of Ohio at least thirty days prior to the date set for a hearing, 411  
in the form the agency determines. The agency shall file copies of 412  
the public notice under division (B) of this section. (The agency 413  
gives public notice in the register of Ohio when the public notice 414  
is published in the register under that division.) 415

The public notice shall include: 416

(1) A statement of the agency's intention to consider 417  
adopting, amending, or rescinding a rule; 418

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

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

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

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

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 450  
date on which the agency, in accordance with division (D) of this 451  
section, issues an order adopting the proposed rule, amendment, or 452  
rescission. 453

If the proposed rule, amendment, or rescission incorporates a 454  
text or other material by reference, the agency shall comply with 455  
sections 121.71 to 121.76 of the Revised Code. 456

The proposed rule, amendment, or rescission shall be 457  
available for at least thirty days prior to the date of the 458  
hearing at the office of the agency in printed or other legible 459  
form without charge to any person affected by the proposal. 460  
Failure to furnish such text to any person requesting it shall not 461  
invalidate any action of the agency in connection therewith. 462

If the agency files a substantive revision in the text of the 463  
proposed rule, amendment, or rescission under division (H) of this 464  
section, it shall also promptly file the full text of the proposed 465  
rule, amendment, or rescission in its revised form in electronic 466  
form with the secretary of state and with the director of the 467  
legislative service commission. 468

The agency shall file the rule summary and fiscal analysis 469  
prepared under section ~~121.24~~ or 127.18 of the Revised Code, ~~or~~ 470  
~~both~~, in electronic form along with a proposed rule, amendment, or 471  
rescission or proposed rule, amendment, or rescission in revised 472  
form that is filed with the secretary of state or the director of 473  
the legislative service commission. 474

The director of the legislative service commission shall 475  
publish in the register of Ohio the full text of the original and 476  
each revised version of a proposed rule, amendment, or rescission; 477  
the full text of a public notice; and the full text of a rule 478  
summary and fiscal analysis that is filed with the director under 479  
this division. 480

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

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

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

(D) After complying with divisions (A), (B), (C), and (H) of this section, and when the time for legislative review and invalidation under division (I) of this section has expired, the agency may issue an order adopting the proposed rule or the proposed amendment or rescission of the rule, consistent with the synopsis or general statement included in the public notice. At that time the agency shall designate the effective date of the rule, amendment, or rescission, which shall not be earlier than

the tenth day after the rule, amendment, or rescission has been 513  
filed in its final form as provided in section 119.04 of the 514  
Revised Code. 515

(E) Prior to the effective date of a rule, amendment, or 516  
rescission, the agency shall make a reasonable effort to inform 517  
those affected by the rule, amendment, or rescission and to have 518  
available for distribution to those requesting it the full text of 519  
the rule as adopted or as amended. 520

(F) If the governor, upon the request of an agency, 521  
determines that an emergency requires the immediate adoption, 522  
amendment, or rescission of a rule, the governor shall issue an 523  
order, the text of which shall be filed in electronic form with 524  
the agency, the secretary of state, the director of the 525  
legislative service commission, and the joint committee on agency 526  
rule review, that the procedure prescribed by this section with 527  
respect to the adoption, amendment, or rescission of a specified 528  
rule is suspended. The agency may then adopt immediately the 529  
emergency rule, amendment, or rescission and it becomes effective 530  
on the date the rule, amendment, or rescission, in final form and 531  
in compliance with division (A)(2) of section 119.04 of the 532  
Revised Code, ~~are~~ is filed in electronic form with the secretary 533  
of state, the director of the legislative service commission, and 534  
the joint committee on agency rule review. If all filings are not 535  
completed on the same day, the emergency rule, amendment, or 536  
rescission shall be effective on the day on which the latest 537  
filing is completed. The director shall publish the full text of 538  
the emergency rule, amendment, or rescission in the register of 539  
Ohio. 540

The emergency rule, amendment, or rescission shall become 541  
invalid at the end of the ninetieth day it is in effect. Prior to 542  
that date the agency may adopt the emergency rule, amendment, or 543  
rescission as a nonemergency rule, amendment, or rescission by 544

complying with the procedure prescribed by this section for the 545  
adoption, amendment, and rescission of nonemergency rules. The 546  
agency shall not use the procedure of this division to readopt the 547  
emergency rule, amendment, or rescission so that, upon the 548  
emergency rule, amendment, or rescission becoming invalid under 549  
this division, the emergency rule, amendment, or rescission will 550  
continue in effect without interruption for another ninety-day 551  
period, except when division (I)(2)(a) of this section prevents 552  
the agency from adopting the emergency rule, amendment, or 553  
rescission as a nonemergency rule, amendment, or rescission within 554  
the ninety-day period. 555

This division does not apply to the adoption of any emergency 556  
rule, amendment, or rescission by the tax commissioner under 557  
division (C)(2) of section 5117.02 of the Revised Code. 558

(G) Rules adopted by an authority within the department of 559  
job and family services for the administration or enforcement of 560  
Chapter 4141. of the Revised Code or of the department of taxation 561  
shall be effective without a hearing as provided by this section 562  
if the statutes pertaining to such agency specifically give a 563  
right of appeal to the board of tax appeals or to a higher 564  
authority within the agency or to a court, and also give the 565  
appellant a right to a hearing on such appeal. This division does 566  
not apply to the adoption of any rule, amendment, or rescission by 567  
the tax commissioner under division (C)(1) or (2) of section 568  
5117.02 of the Revised Code, or deny the right to file an action 569  
for declaratory judgment as provided in Chapter 2721. of the 570  
Revised Code from the decision of the board of tax appeals or of 571  
the higher authority within such agency. 572

(H) When any agency files a proposed rule, amendment, or 573  
rescission under division (B) of this section, it shall also file 574  
in electronic form with the joint committee on agency rule review 575  
the full text of the proposed rule, amendment, or rule to be 576

rescinded in the same form and the public notice required under 577  
division (A) of this section. (If in compliance with this division 578  
an agency files more than one proposed rule, amendment, or 579  
rescission at the same time, and has given a public notice under 580  
division (A) of this section that applies to more than one of the 581  
proposed rules, amendments, or rescissions, the agency shall file 582  
only one notice with the joint committee for all of the proposed 583  
rules, amendments, or rescissions to which the notice applies.) If 584  
the agency makes a substantive revision in a proposed rule, 585  
amendment, or rescission after it is filed with the joint 586  
committee, the agency shall promptly file the full text of the 587  
proposed rule, amendment, or rescission in its revised form in 588  
electronic form with the joint committee. The latest version of a 589  
proposed rule, amendment, or rescission as filed with the joint 590  
committee supersedes each earlier version of the text of the same 591  
proposed rule, amendment, or rescission. An agency shall file the 592  
rule summary and fiscal analysis prepared under section ~~121.24 or~~ 593  
~~127.18~~ of the Revised Code, ~~or both~~, in electronic form along with 594  
a proposed rule, amendment, or rescission, and along with a 595  
proposed rule, amendment, or rescission in revised form, that is 596  
filed under this division. And, if a proposed rule, amendment, or 597  
rescission has an adverse impact on small businesses, the agency 598  
also shall file the small business impact analysis in electronic 599  
form along with the proposed rule, amendment, or rescission, or 600  
along with the proposed rule, amendment, or rescission in revised 601  
form, that is filed under this division. 602

This division does not apply to: 603

(1) An emergency rule, amendment, or rescission; 604

(2) Any proposed rule, amendment, or rescission that must be 605  
adopted verbatim by an agency pursuant to federal law or rule, to 606  
become effective within sixty days of adoption, in order to 607  
continue the operation of a federally reimbursed program in this 608

state, so long as the proposed rule contains both of the 609  
following: 610

(a) A statement that it is proposed for the purpose of 611  
complying with a federal law or rule; 612

(b) A citation to the federal law or rule that requires 613  
verbatim compliance. 614

If a rule or amendment is exempt from legislative review 615  
under division (H)(2) of this section, and if the federal law or 616  
rule pursuant to which the rule or amendment was adopted expires, 617  
is repealed or rescinded, or otherwise terminates, the rule or 618  
amendment, or its rescission, is thereafter subject to legislative 619  
review under division (H) of this section. 620

(I)(1) The joint committee on agency rule review may 621  
recommend the adoption of a concurrent resolution invalidating a 622  
proposed rule, amendment, rescission, or part thereof if it finds 623  
any of the following: 624

(a) That the rule-making agency has exceeded the scope of its 625  
statutory authority in proposing the rule, amendment, or 626  
rescission; 627

(b) That the proposed rule, amendment, or rescission 628  
conflicts with another rule, amendment, or rescission adopted by 629  
the same or a different rule-making agency; 630

(c) That the proposed rule, amendment, or rescission 631  
conflicts with the legislative intent in enacting the statute 632  
under which the rule-making agency proposed the rule, amendment, 633  
or rescission; 634

(d) That the rule-making agency has failed to prepare a 635  
complete and accurate rule summary and fiscal analysis of the 636  
proposed rule, amendment, or rescission as required by section 637  
~~121.24 or 127.18 of the Revised Code, or both, or that;~~ 638

(e) That the proposed rule, amendment, or rescission 639  
incorporates a text or other material by reference and either the 640  
rule-making agency has failed to file the text or other material 641  
incorporated by reference as required by section 121.73 of the 642  
Revised Code or, in the case of a proposed rule or amendment, the 643  
incorporation by reference fails to meet the standards stated in 644  
section 121.72, 121.75, or 121.76 of the Revised Code; 645

(f) That the rule-making agency has failed to demonstrate 646  
that the regulatory intent of the proposed rule, amendment, or 647  
rescission outweighs its adverse impact on small businesses in 648  
this state. 649

The joint committee shall not hold its public hearing on a 650  
proposed rule, amendment, or rescission earlier than the 651  
forty-first day after the original version of the proposed rule, 652  
amendment, or rescission was filed with the joint committee. 653

The house of representatives and senate may adopt a 654  
concurrent resolution invalidating a proposed rule, amendment, 655  
rescission, or part thereof. The concurrent resolution shall state 656  
which of the specific rules, amendments, rescissions, or parts 657  
thereof are invalidated. A concurrent resolution invalidating a 658  
proposed rule, amendment, or rescission shall be adopted not later 659  
than the sixty-fifth day after the original version of the text of 660  
the proposed rule, amendment, or rescission is filed with the 661  
joint committee, except that if more than thirty-five days after 662  
the original version is filed the rule-making agency either files 663  
a revised version of the text of the proposed rule, amendment, or 664  
rescission, or revises the rule summary and fiscal analysis in 665  
accordance with division (I)(4) of this section, a concurrent 666  
resolution invalidating the proposed rule, amendment, or 667  
rescission shall be adopted not later than the thirtieth day after 668  
the revised version of the proposed rule or rule summary and 669  
fiscal analysis is filed. If, after the joint committee on agency 670

rule review recommends the adoption of a concurrent resolution 671  
invalidating a proposed rule, amendment, rescission, or part 672  
thereof, the house of representatives or senate does not, within 673  
the time remaining for adoption of the concurrent resolution, hold 674  
five floor sessions at which its journal records a roll call vote 675  
disclosing a sufficient number of members in attendance to pass a 676  
bill, the time within which that house may adopt the concurrent 677  
resolution is extended until it has held five such floor sessions. 678

Within five days after the adoption of a concurrent 679  
resolution invalidating a proposed rule, amendment, rescission, or 680  
part thereof, the clerk of the senate shall send the rule-making 681  
agency, the secretary of state, and the director of the 682  
legislative service commission in electronic form a certified text 683  
of the resolution together with a certification stating the date 684  
on which the resolution takes effect. The secretary of state and 685  
the director of the legislative service commission shall each note 686  
the invalidity of the proposed rule, amendment, rescission, or 687  
part thereof, and shall each remove the invalid proposed rule, 688  
amendment, rescission, or part thereof from the file of proposed 689  
rules. The rule-making agency shall not proceed to adopt in 690  
accordance with division (D) of this section, or to file in 691  
accordance with division (B)(1) of section 111.15 of the Revised 692  
Code, any version of a proposed rule, amendment, rescission, or 693  
part thereof that has been invalidated by concurrent resolution. 694

Unless the house of representatives and senate adopt a 695  
concurrent resolution invalidating a proposed rule, amendment, 696  
rescission, or part thereof within the time specified by this 697  
division, the rule-making agency may proceed to adopt in 698  
accordance with division (D) of this section, or to file in 699  
accordance with division (B)(1) of section 111.15 of the Revised 700  
Code, the latest version of the proposed rule, amendment, or 701  
rescission as filed with the joint committee. If by concurrent 702

resolution certain of the rules, amendments, rescissions, or parts 703  
thereof are specifically invalidated, the rule-making agency may 704  
proceed to adopt, in accordance with division (D) of this section, 705  
or to file in accordance with division (B)(1) of section 111.15 of 706  
the Revised Code, the latest version of the proposed rules, 707  
amendments, rescissions, or parts thereof as filed with the joint 708  
committee that are not specifically invalidated. The rule-making 709  
agency may not revise or amend any proposed rule, amendment, 710  
rescission, or part thereof that has not been invalidated except 711  
as provided in this chapter or in section 111.15 of the Revised 712  
Code. 713

(2)(a) A proposed rule, amendment, or rescission that is 714  
filed with the joint committee under division (H) of this section 715  
or division (D) of section 111.15 of the Revised Code shall be 716  
carried over for legislative review to the next succeeding regular 717  
session of the general assembly if the original or any revised 718  
version of the proposed rule, amendment, or rescission is filed 719  
with the joint committee on or after the first day of December of 720  
any year. 721

(b) The latest version of any proposed rule, amendment, or 722  
rescission that is subject to division (I)(2)(a) of this section, 723  
as filed with the joint committee, is subject to legislative 724  
review and invalidation in the next succeeding regular session of 725  
the general assembly in the same manner as if it were the original 726  
version of a proposed rule, amendment, or rescission that had been 727  
filed with the joint committee for the first time on the first day 728  
of the session. A rule-making agency shall not adopt in accordance 729  
with division (D) of this section, or file in accordance with 730  
division (B)(1) of section 111.15 of the Revised Code, any version 731  
of a proposed rule, amendment, or rescission that is subject to 732  
division (I)(2)(a) of this section until the time for legislative 733  
review and invalidation, as contemplated by division (I)(2)(b) of 734

this section, has expired. 735

(3) Invalidation of any version of a proposed rule, 736  
amendment, rescission, or part thereof by concurrent resolution 737  
shall prevent the rule-making agency from instituting or 738  
continuing proceedings to adopt any version of the same proposed 739  
rule, amendment, rescission, or part thereof for the duration of 740  
the general assembly that invalidated the proposed rule, 741  
amendment, rescission, or part thereof unless the same general 742  
assembly adopts a concurrent resolution permitting the rule-making 743  
agency to institute or continue such proceedings. 744

The failure of the general assembly to invalidate a proposed 745  
rule, amendment, rescission, or part thereof under this section 746  
shall not be construed as a ratification of the lawfulness or 747  
reasonableness of the proposed rule, amendment, rescission, or any 748  
part thereof or of the validity of the procedure by which the 749  
proposed rule, amendment, rescission, or any part thereof was 750  
proposed or adopted. 751

(4) In lieu of recommending a concurrent resolution to 752  
invalidate a proposed rule, amendment, rescission, or part thereof 753  
because the rule-making agency has failed to prepare a complete 754  
and accurate fiscal analysis, the joint committee on agency rule 755  
review may issue, on a one-time basis, for rules, amendments, 756  
rescissions, or parts thereof that have a fiscal effect on school 757  
districts, counties, townships, or municipal corporations, a 758  
finding that the rule summary and fiscal analysis is incomplete or 759  
inaccurate and order the rule-making agency to revise the rule 760  
summary and fiscal analysis and refile it with the proposed rule, 761  
amendment, rescission, or part thereof. If an emergency rule is 762  
filed as a nonemergency rule before the end of the ninetieth day 763  
of the emergency rule's effectiveness, and the joint committee 764  
issues a finding and orders the rule-making agency to refile under 765  
division (I)(4) of this section, the governor may also issue an 766

order stating that the emergency rule shall remain in effect for 767  
an additional sixty days after the ninetieth day of the emergency 768  
rule's effectiveness. The governor's orders shall be filed in 769  
accordance with division (F) of this section. The joint committee 770  
shall send in electronic form to the rule-making agency, the 771  
secretary of state, and the director of the legislative service 772  
commission a certified text of the finding and order to revise the 773  
rule summary and fiscal analysis, which shall take immediate 774  
effect. 775

An order issued under division (I)(4) of this section shall 776  
prevent the rule-making agency from instituting or continuing 777  
proceedings to adopt any version of the proposed rule, amendment, 778  
rescission, or part thereof until the rule-making agency revises 779  
the rule summary and fiscal analysis and refiles it in electronic 780  
form with the joint committee along with the proposed rule, 781  
amendment, rescission, or part thereof. If the joint committee 782  
finds the rule summary and fiscal analysis to be complete and 783  
accurate, the joint committee shall issue a new order noting that 784  
the rule-making agency has revised and refiled a complete and 785  
accurate rule summary and fiscal analysis. The joint committee 786  
shall send in electronic form to the rule-making agency, the 787  
secretary of state, and the director of the legislative service 788  
commission a certified text of this new order. The secretary of 789  
state and the director of the legislative service commission shall 790  
each link this order to the proposed rule, amendment, rescission, 791  
or part thereof. The rule-making agency may then proceed to adopt 792  
in accordance with division (D) of this section, or to file in 793  
accordance with division (B)(1) of section 111.15 of the Revised 794  
Code, the proposed rule, amendment, rescission, or part thereof 795  
that was subject to the finding and order under division (I)(4) of 796  
this section. If the joint committee determines that the revised 797  
rule summary and fiscal analysis is still inaccurate or 798  
incomplete, the joint committee shall recommend the adoption of a 799

concurrent resolution in accordance with division (I)(1) of this section. 800  
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**Sec. 121.39.** (A) As used in this section, "environmental protection" means any of the following: 802  
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(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; 804  
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(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; 809  
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(3) Regulation of the collection, management, treatment, reduction, storage, or disposal of solid, hazardous, radioactive, or other wastes; 812  
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(4) Plans or programs to promote or regulate the conservation, recycling, or reuse of energy, materials, or wastes. 815  
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(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. 817  
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Also at the time of the first hearing of the legislation 830  
before the committee, a statewide organization that represents 831  
businesses in this state and that elects its board of directors 832  
may submit to the members of the committee a written estimate of 833  
the costs to the regulated community in this state of complying 834  
with the legislation if it is enacted. 835

At any hearing of the legislation before the committee, a 836  
representative of any state agency, environmental advocacy 837  
organization, or consumer advocacy organization or any private 838  
citizen may present documentation containing an estimate of the 839  
monetary and other costs to public health and safety and the 840  
environment and to consumers and residential utility customers, 841  
and the effects on property values, if the legislation is not 842  
enacted. 843

(C) Until such time as the statement required under division 844  
(B) of this section is submitted to the committee to which 845  
proposed legislation dealing with environmental protection or 846  
containing a component dealing with environmental protection was 847  
referred, the legislation shall not be reported by that committee. 848  
This requirement does not apply if the component dealing with 849  
environmental protection is removed from the legislation or if 850  
two-thirds of the members of the committee vote in favor of a 851  
motion to report the proposed legislation. 852

(D) Except as otherwise provided in division (E) of this 853  
section, prior to adopting a rule or an amendment proposed to a 854  
rule dealing with environmental protection or containing a 855  
component dealing with environmental protection, a state agency 856  
shall do all of the following: 857

(1) Consult with organizations that represent political 858  
subdivisions, environmental interests, business interests, and 859  
other persons affected by the proposed rule or amendment; 860

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

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

(4) Include with the proposed rule or amendment and the rule summary and fiscal analysis required under ~~sections 121.24 and~~ section 127.18 of the Revised Code, when they 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, one of the following in electronic form, as applicable:

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

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

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

If the agency subsequently files a revision of such a

proposed rule or amendment in accordance with division (D) of 892  
section 111.15 or division (H) of section 119.03 of the Revised 893  
Code, the revision shall be accompanied in electronic form by the 894  
applicable information or documentation. 895

Division (D) of this section does not apply to any emergency 896  
rule adopted under division (B)(2) of section 111.15 or division 897  
(F) of section 119.03 of the Revised Code, but does apply to any 898  
such rule that subsequently is adopted as a nonemergency rule 899  
under either of those divisions. 900

The information or documentation submitted under division 901  
(D)(4) of this section may be in the form of a summary or index of 902  
available knowledge or information and shall consist of or be 903  
based upon the best available generally accepted knowledge or 904  
information in the appropriate fields, as determined by the agency 905  
that prepared the documentation. 906

(E) The statement required under division (B) and the 907  
information or documentation required under division (D) of this 908  
section need not be prepared or submitted with regard to a 909  
proposed statute or rule, or an amendment to a rule, if the 910  
statute, rule, or amendment is procedural or budgetary in nature, 911  
or governs the organization or operation of a state agency, and 912  
will not affect the substantive rights or obligations of any 913  
person other than a state agency or an employee or contractor of a 914  
state agency. 915

(F) The insufficiency, incompleteness, or inadequacy of a 916  
statement, information, documentation, or a summary of information 917  
or documentation provided in accordance with division (B) or (D) 918  
of this section shall not be grounds for invalidation of any 919  
statute, rule, or amendment to a rule. 920

(G) This section applies only to the following: 921

(1) Legislation and components of legislation dealing with 922

environmental protection that are introduced in the general 923  
assembly after March 5, 1996; 924

(2) Rules and rule amendments dealing with environmental 925  
protection that are filed with the joint committee on agency rule 926  
review in accordance with division (D) of section 111.15 or 927  
division (H) of section 119.03 of the Revised Code after March 5, 928  
1996. 929

Sec. 121.81. As used in sections 121.81 to 121.83 of the 930  
Revised Code: 931

(A) "Agency" means a state agency that is required to file 932  
proposed rules for legislative review under division (D) of 933  
section 111.15 or division (H) of section 119.03 of the Revised 934  
Code. 935

(B) "Proposed rule" means a proposed amendment, adoption, or 936  
rescission of a rule, and includes a proposed amendment, adoption, 937  
or rescission of a rule in both its original and any revised form. 938  
"Proposed rule" does not include an emergency rule adopted under 939  
division (B)(2) of section 111.15 or division (F) of section 940  
119.03 of the Revised Code, but does include a rule that is 941  
proposed to replace an emergency rule that expires under those 942  
divisions. 943

(C) "Small business" means an independently owned and 944  
operated business entity, including affiliates, that has fewer 945  
than five hundred full time employees or gross annual sales of 946  
less than six million dollars, and the principal location of which 947  
is located in the state. 948

Sections 121.81 to 121.83 and 121.91 of the Revised Code are 949  
complementary to sections 108.11 to 108.13 and 108.21 to 108.23 of 950  
the Revised Code. 951

Sec. 121.82. In the course of developing a rule that is 952

intended to be proposed under division (D) of section 111.15 or 953  
division (H) of section 119.03 of the Revised Code, an agency 954  
shall: 955

(A) Evaluate the proposed rule against the small business 956  
impact analysis instrument and incorporate features into the 957  
proposed rule that will eliminate or adequately reduce any adverse 958  
impact the proposed rule might have on small businesses; and 959

(B) Prepare a small business impact analysis that describes 960  
its evaluation of the proposed rule against the small business 961  
impact analysis instrument, that identifies any features that were 962  
incorporated into the proposed rule as a result of the evaluation, 963  
and that explains how those features, if there were any, eliminate 964  
or adequately reduce any adverse impact the proposed rule might 965  
have on small businesses. 966

**Sec. 121.83.** (A) When an agency files a proposed rule for 967  
legislative review under division (D) of section 111.15 of the 968  
Revised Code or division (H) of section 119.03 of the Revised 969  
Code, the agency electronically shall file one copy of the small 970  
business impact analysis along with the proposed rule. 971

The joint committee on agency rule review does not have 972  
jurisdiction to review, and shall reject, the filing of a proposed 973  
rule if, at any time while the proposed rule is in its possession, 974  
it discovers that the proposed rule might have an adverse impact 975  
on small businesses and the agency has not included with the 976  
filing a small business impact analysis or has included a small 977  
business impact analysis that is inadequately prepared. The joint 978  
committee electronically shall return a filing that is rejected to 979  
the agency. Such a rejection does not preclude the agency from 980  
refiling the proposed rule after complying with section 121.82 of 981  
the Revised Code. When a filing is rejected under this division, 982  
it is as if the filing had not been made. 983

Sec. 121.91. A state agency, and its officers and employees, 984  
shall comply with the customer service performance standards that 985  
have been developed by the common sense initiative office and that 986  
apply to the state agency and its officers and employees. A state 987  
agency's compliance with the standards shall be evaluated, by the 988  
director of budget and management and the committees of the senate 989  
and house of representatives having jurisdiction over the state 990  
operating budget, as part of the consideration of its biennial 991  
budget. (If the evaluation is of the office of budget and 992  
management, evaluation by the committees is sufficient.) An 993  
officer's or employee's compliance with the standards shall be 994  
evaluated as part of the officer's or employee's periodic 995  
performance reviews. And a state agency's and its officer's and 996  
employee's compliance with the standards may be evaluated as part 997  
of any performance audit of the state agency. 998

**Sec. 122.08.** (A) There is hereby created within the 999  
department of development an office to be known as the office of 1000  
small business. The office shall be under the supervision of a 1001  
manager appointed by the director of development. 1002

(B) The office shall do all of the following: 1003

(1) Act as liaison between the small business community and 1004  
state governmental agencies; 1005

(2) Furnish information and technical assistance to persons 1006  
and small businesses concerning the establishment and maintenance 1007  
of a small business, and concerning state laws and rules relevant 1008  
to the operation of a small business. In conjunction with these 1009  
duties, the office shall keep a record of all proposed and 1010  
currently effective state agency rules affecting ~~individuals,~~ 1011  
~~small businesses, or small organizations, as defined in section~~ 1012  
~~121.24 of the Revised Code,~~ and may testify before the joint 1013

committee on agency rule review concerning any proposed rule 1014  
affecting ~~individuals, small businesses, or small organizations.~~ 1015

(3) Prepare and publish the small business register under 1016  
section 122.081 of the Revised Code; 1017

(4) Receive complaints from small businesses concerning 1018  
governmental activity, compile and analyze those complaints, and 1019  
periodically make recommendations to the governor and the general 1020  
assembly on changes in state laws or agency rules needed to 1021  
eliminate burdensome and unproductive governmental regulation to 1022  
improve the economic climate within which small businesses 1023  
operate; 1024

(5) Receive complaints or questions from small businesses and 1025  
direct those businesses to the appropriate governmental agency. 1026  
If, within a reasonable period of time, a complaint is not 1027  
satisfactorily resolved or a question is not satisfactorily 1028  
answered, the office shall, on behalf of the small business, make 1029  
every effort to secure a satisfactory result. For this purpose, 1030  
the office may consult with any state governmental agency and may 1031  
make any suggestion or request that seems appropriate. 1032

(6) Utilize, to the maximum extent possible, the printed and 1033  
electronic media to disseminate information of current concern and 1034  
interest to the small business community and to make known to 1035  
small businesses the services available through the office. The 1036  
office shall publish such books, pamphlets, and other printed 1037  
materials, and shall participate in such trade association 1038  
meetings, conventions, fairs, and other meetings involving the 1039  
small business community, as the manager considers appropriate. 1040

(7) Prepare for inclusion in the department of development's 1041  
annual report to the governor and general assembly, a description 1042  
of the activities of the office and a report of the number of 1043  
rules affecting ~~individuals, small businesses, and small~~ 1044

~~organizations that were filed with~~ recorded by the office ~~under~~ 1045  
~~division (B)(2) of section 121.24 of the Revised Code,~~ during the 1046  
preceding calendar year; 1047

(8) Operate the Ohio first-stop business connection to assist 1048  
individuals in identifying and preparing applications for business 1049  
licenses, permits, and certificates and to serve as the central 1050  
public distributor for all forms, applications, and other 1051  
information related to business licensing. Each state agency, 1052  
board, and commission shall cooperate in providing assistance, 1053  
information, and materials to enable the connection to perform its 1054  
duties under this division. 1055

(C) The office may, upon the request of a state agency, 1056  
assist the agency with the preparation of any rule that will 1057  
affect ~~individuals, small businesses, or small organizations.~~ 1058

(D) The director of development shall assign employees and 1059  
furnish equipment and supplies to the office as the director 1060  
considers necessary for the proper performance of the duties 1061  
assigned to the office. 1062

**Sec. 122.081.** (A) The office of small business in the 1063  
department of development shall prepare and publish a "small 1064  
business register" or contract with any person as provided in this 1065  
section to prepare and publish the register. The small business 1066  
register shall contain the following information regarding each 1067  
proposed rule ~~filed with~~ recorded by the office of small business 1068  
~~under division (B)(2) of section 121.24 of the Revised Code:~~ 1069

(1) The title and administrative code rule number of the 1070  
proposed rule; 1071

(2) A brief summary of the proposed rule; 1072

(3) The date on which the proposed rule was ~~filed with~~ 1073  
recorded by the office of small business ~~under division (B)(2) of~~ 1074

~~section 121.24 of the Revised Code; and~~ 1075

(4) The name, address, and telephone number of ~~the an~~ 1076  
individual or office within the agency that proposed the rule who 1077  
~~has been designated as being responsible for complying with~~ 1078  
~~division (E) of section 121.24 of the Revised Code with regard to~~ 1079  
can provide information about the proposed rule. 1080

(B) The small business register shall be published on a 1081  
weekly basis. The information required under division (A) of this 1082  
section shall be published in the register no later than two weeks 1083  
after the proposed rule to which the information relates is ~~filed~~ 1084  
~~with~~ recorded by the office of small business ~~under division~~ 1085  
~~(B)(2) of section 121.24 of the Revised Code.~~ The office of small 1086  
business shall furnish the small business register, on a single 1087  
copy or subscription basis, to any person who requests it and pays 1088  
a single copy price or subscription rate fixed by the office. The 1089  
office shall furnish the ~~chairmen~~ chairpersons of the standing 1090  
committees of the senate and house of representatives having 1091  
jurisdiction over ~~individuals,~~ small businesses, ~~and small~~ 1092  
~~organizations~~ with free subscriptions to the small business 1093  
register. 1094

(C) Upon the request of the office of small business, the 1095  
director of administrative services shall, in accordance with the 1096  
competitive selection procedure of Chapter 125. of the Revised 1097  
Code, let a contract for the compilation, printing, and 1098  
distribution of the small business register. 1099

(D) The office of small business shall adopt, and may amend 1100  
or rescind, in accordance with Chapter 119. of the Revised Code, 1101  
such rules as are necessary to enable it to properly carry out 1102  
this section. 1103

**Sec. 122.94.** The director of ~~the department of~~ development 1104  
shall: 1105

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

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

**Sec. 1710.02.** (A) A special improvement district may be created within the boundaries of any one municipal corporation, any one township, or any combination of contiguous municipal corporations and townships for the purpose of developing and implementing plans for public improvements and public services that benefit the district. A district may be created by petition of the owners of real property within the proposed district, or by an existing qualified nonprofit corporation. If the district is created by an existing qualified nonprofit corporation, the purposes for which the district is created may be supplemental to the other purposes for which the corporation is organized. All territory in a special improvement district shall be contiguous; except that the territory in a special improvement district may be noncontiguous if at least one special energy improvement project is designated for each parcel of real property included within the special improvement district. Additional territory may be added to a special improvement district created under this chapter for the purpose of developing and implementing plans for special energy improvement projects if at least one special energy improvement

project is designated for each parcel of real property included 1138  
within such additional territory and the addition of territory is 1139  
authorized by the initial plan proposed under division (F) of this 1140  
section or a plan adopted by the board of directors of the special 1141  
improvement district under section 1710.06 of the Revised Code. 1142

The district shall be governed by the board of trustees of a 1143  
nonprofit corporation. This board shall be known as the board of 1144  
directors of the special improvement district. No special 1145  
improvement district shall include any church property, or 1146  
property of the federal or state government or a county, township, 1147  
or municipal corporation, unless the church or the county, 1148  
township, or municipal corporation specifically requests in 1149  
writing that the property be included within the district, or 1150  
unless the church is a member of the existing qualified nonprofit 1151  
corporation creating the district at the time the district is 1152  
created. More than one district may be created within a 1153  
participating political subdivision, but no real property may be 1154  
included within more than one district unless the owner of the 1155  
property files a written consent with the clerk of the legislative 1156  
authority, the township fiscal officer, or the village clerk, as 1157  
appropriate. The area of each district shall be contiguous; except 1158  
that the area of a special improvement district may be 1159  
noncontiguous if all parcels of real property included within such 1160  
area contain at least one special energy improvement thereon. 1161

(B) Except as provided in division (C) of this section, a 1162  
district created under this chapter is not a political 1163  
subdivision. A district created under this chapter shall be 1164  
considered a public agency under section 102.01 and a public 1165  
authority under section 4115.03 of the Revised Code. Each member 1166  
of the board of directors of a district, each member's designee or 1167  
proxy, and each officer and employee of a district shall be 1168  
considered a public official or employee under section 102.01 of 1169

the Revised Code and a public official and public servant under 1170  
section 2921.42 of the Revised Code. Districts created under this 1171  
chapter are not subject to ~~section 121.251~~ sections 121.81 to 1172  
121.83 of the Revised Code. Districts created under this chapter 1173  
are subject to sections 121.22 and 121.23 of the Revised Code. 1174

(C) Each district created under this chapter shall be 1175  
considered a political subdivision for purposes of section 4905.34 1176  
of the Revised Code. 1177

Membership on the board of directors of the district shall 1178  
not be considered as holding a public office. Directors and their 1179  
designees shall be entitled to the immunities provided by Chapter 1180  
1702. and to the same immunity as an employee under division 1181  
(A)(6) of section 2744.03 of the Revised Code, except that 1182  
directors and their designees shall not be entitled to the 1183  
indemnification provided in section 2744.07 of the Revised Code 1184  
unless the director or designee is an employee or official of a 1185  
participating political subdivision of the district and is acting 1186  
within the scope of the director's or designee's employment or 1187  
official responsibilities. 1188

District officers and district members and directors and 1189  
their designees or proxies shall not be required to file a 1190  
statement with the Ohio ethics commission under section 102.02 of 1191  
the Revised Code. All records of the district shall be treated as 1192  
public records under section 149.43 of the Revised Code, except 1193  
that records of organizations contracting with a district shall 1194  
not be considered to be public records under section 149.43 or 1195  
section 149.431 of the Revised Code solely by reason of any 1196  
contract with a district. 1197

(D) Except as otherwise provided in this section, the 1198  
nonprofit corporation that governs a district shall be organized 1199  
in the manner described in Chapter 1702. of the Revised Code. 1200  
Except in the case of a district created by an existing qualified 1201

nonprofit corporation, the corporation's articles of incorporation 1202  
are required to be approved, as provided in division (E) of this 1203  
section, by resolution of the legislative authority of each 1204  
participating political subdivision of the district. A copy of 1205  
that resolution shall be filed along with the articles of 1206  
incorporation in the secretary of state's office. 1207

In addition to meeting the requirements for articles of 1208  
incorporation set forth in Chapter 1702. of the Revised Code, the 1209  
articles of incorporation for the nonprofit corporation governing 1210  
a district formed under this chapter shall provide all the 1211  
following: 1212

(1) The name for the district, which shall include the name 1213  
of each participating political subdivision of the district; 1214

(2) A description of the territory within the district, which 1215  
may be all or part of each participating political subdivision. 1216  
The description shall be specific enough to enable real property 1217  
owners to determine if their property is located within the 1218  
district. 1219

(3) A description of the procedure by which the articles of 1220  
incorporation may be amended. The procedure shall include 1221  
receiving approval of the amendment, by resolution, from the 1222  
legislative authority of each participating political subdivision 1223  
and filing the approved amendment and resolution with the 1224  
secretary of state. 1225

(4) The reasons for creating the district, plus an 1226  
explanation of how the district will be conducive to the public 1227  
health, safety, peace, convenience, and welfare of the district. 1228

(E) The articles of incorporation for a nonprofit corporation 1229  
governing a district created under this chapter and amendments to 1230  
them shall be submitted to the municipal executive, if any, and 1231  
the legislative authority of each municipal corporation or 1232

township in which the proposed district is to be located. Except 1233  
in the case of a district created by an existing qualified 1234  
nonprofit corporation, the articles or amendments shall be 1235  
accompanied by a petition signed either by the owners of at least 1236  
sixty per cent of the front footage of all real property located 1237  
in the proposed district that abuts upon any street, alley, public 1238  
road, place, boulevard, parkway, park entrance, easement, or other 1239  
existing public improvement within the proposed district, 1240  
excluding church property or property owned by the state, county, 1241  
township, municipal, or federal government, unless a church, 1242  
county, township, or municipal corporation has specifically 1243  
requested in writing that the property be included in the 1244  
district, or by the owners of at least seventy-five per cent of 1245  
the area of all real property located within the proposed 1246  
district, excluding church property or property owned by the 1247  
state, county, township, municipal, or federal government, unless 1248  
a church, county, township, or municipal corporation has 1249  
specifically requested in writing that the property be included in 1250  
the district. Pursuant to Section 20 of Article VIII, Ohio 1251  
Constitution, the petition required under this division may be for 1252  
the purpose of developing and implementing plans for special 1253  
energy improvement projects, and, in such case, is determined to 1254  
be in furtherance of the purposes set forth in Section 20 of 1255  
Article VIII, Ohio Constitution. If a special improvement district 1256  
is being created under this chapter for the purpose of developing 1257  
and implementing plans for special energy improvement projects, 1258  
the petition required under this division shall be signed by one 1259  
hundred per cent of the owners of the area of all real property 1260  
located within the proposed special improvement district, at least 1261  
one special energy improvement project shall be designated for 1262  
each parcel of real property within the special improvement 1263  
district, and the special improvement district may include any 1264  
number of parcels of real property as determined by the 1265

legislative authority of each participating political subdivision 1266  
in which the proposed special improvement district is to be 1267  
located. For purposes of determining compliance with these 1268  
requirements, the area of the district, or the front footage and 1269  
ownership of property, shall be as shown in the most current 1270  
records available at the county recorder's office and the county 1271  
engineer's office sixty days prior to the date on which the 1272  
petition is filed. 1273

Each municipal corporation or township with which the 1274  
petition is filed has sixty days to approve or disapprove, by 1275  
resolution, the petition, including the articles of incorporation. 1276  
In the case of a district created by an existing qualified 1277  
nonprofit corporation, each municipal corporation or township has 1278  
sixty days to approve or disapprove the creation of the district 1279  
after the corporation submits the articles of incorporation or 1280  
amendments thereto. This chapter does not prohibit or restrict the 1281  
rights of municipal corporations under Article XVIII of the Ohio 1282  
Constitution or the right of the municipal legislative authority 1283  
to impose reasonable conditions in a resolution of approval. The 1284  
acquisition, installation, equipping, and improvement of a special 1285  
energy improvement project under this chapter shall not supersede 1286  
any local zoning, environmental, or similar law or regulation. 1287

(F) Persons proposing creation and operation of the district 1288  
may propose an initial plan for public services or public 1289  
improvements that benefit all or any part of the district. Any 1290  
initial plan shall be submitted as part of the petition proposing 1291  
creation of the district or, in the case of a district created by 1292  
an existing qualified nonprofit corporation, shall be submitted 1293  
with the articles of incorporation or amendments thereto. 1294

An initial plan may include provisions for the following: 1295

(1) Creation and operation of the district and of the 1296  
nonprofit corporation to govern the district under this chapter; 1297

(2) Hiring employees and professional services;	1298
(3) Contracting for insurance;	1299
(4) Purchasing or leasing office space and office equipment;	1300
(5) Other actions necessary initially to form, operate, or organize the district and the nonprofit corporation to govern the district;	1301 1302 1303
(6) A plan for public improvements or public services that benefit all or part of the district, which plan shall comply with the requirements of division (A) of section 1710.06 of the Revised Code and may include, but is not limited to, any of the permissive provisions described in the fourth sentence of that division or listed in divisions (A)(1) to (7) of that section;	1304 1305 1306 1307 1308 1309
(7) If the special improvement district is being created under this chapter for the purpose of developing and implementing plans for special energy improvement projects, provision for the addition of territory to the special improvement district.	1310 1311 1312 1313
After the initial plan is approved by all municipal corporations and townships to which it is submitted for approval and the district is created, each participating subdivision shall levy a special assessment within its boundaries to pay for the costs of the initial plan. The levy shall be for no more than ten years from the date of the approval of the initial plan; except that if the proceeds of the levy are to be used to pay the costs of a special energy improvement project, the levy of a special assessment shall be for no more than thirty years from the date of approval of the initial plan. In the event that additional territory is added to a special improvement district, the special assessment to be levied with respect to such additional territory shall commence not earlier than the date such territory is added and shall be for no more than thirty years from such date. For purposes of levying an assessment for this initial plan, the	1314 1315 1316 1317 1318 1319 1320 1321 1322 1323 1324 1325 1326 1327 1328

services or improvements included in the initial plan shall be 1329  
deemed a special benefit to property owners within the district. 1330

(G) Each nonprofit corporation governing a district under 1331  
this chapter may do the following: 1332

(1) Exercise all powers of nonprofit corporations granted 1333  
under Chapter 1702. of the Revised Code that do not conflict with 1334  
this chapter; 1335

(2) Develop, adopt, revise, implement, and repeal plans for 1336  
public improvements and public services for all or any part of the 1337  
district; 1338

(3) Contract with any person, political subdivision as 1339  
defined in section 2744.01 of the Revised Code, or state agency as 1340  
defined in section 1.60 of the Revised Code to develop and 1341  
implement plans for public improvements or public services within 1342  
the district; 1343

(4) Contract and pay for insurance for the district and for 1344  
directors, officers, agents, contractors, employees, or members of 1345  
the district for any consequences of the implementation of any 1346  
plan adopted by the district or any actions of the district. 1347

The board of directors of a special improvement district may, 1348  
acting as agent and on behalf of a participating political 1349  
subdivision, sell, transfer, lease, or convey any special energy 1350  
improvement project owned by the participating political 1351  
subdivision upon a determination by the legislative authority 1352  
thereof that the project is not required to be owned exclusively 1353  
by the participating political subdivision for its purposes, for 1354  
uses determined by the legislative authority thereof as those that 1355  
will promote the welfare of the people of such participating 1356  
political subdivision; to improve the quality of life and the 1357  
general and economic well-being of the people of the participating 1358  
political subdivision; better ensure the public health, safety, 1359

and welfare; protect water and other natural resources; provide 1360  
for the conservation and preservation of natural and open areas 1361  
and farmlands, including by making urban areas more desirable or 1362  
suitable for development and revitalization; control, prevent, 1363  
minimize, clean up, or mediate certain contamination of or 1364  
pollution from lands in the state and water contamination or 1365  
pollution; or provide for safe and natural areas and resources. 1366  
The legislative authority of each participating political 1367  
subdivision shall specify the consideration for such sale, 1368  
transfer, lease, or conveyance and any other terms thereof. Any 1369  
determinations made by a legislative authority of a participating 1370  
political subdivision under this division shall be conclusive. 1371

Any sale, transfer, lease, or conveyance of a special energy 1372  
improvement project by a participating political subdivision or 1373  
the board of directors of the special improvement district may be 1374  
made without advertising, receipt of bids, or other competitive 1375  
bidding procedures applicable to the participating political 1376  
subdivision or the special improvement district under Chapter 153. 1377  
or 735. or section 1710.11 of the Revised Code or other 1378  
representative provisions of the Revised Code. 1379

**Section 2.** That existing sections 103.0511, 111.15, 117.20, 1380  
119.03, 121.39, 122.08, 122.081, 122.94, and 1710.02 of the 1381  
Revised Code are repealed. 1382

**Section 3.** That section 121.24 of the Revised Code is 1383  
repealed, effective January 1, 2012. 1384

**Section 4.** The amendments by this act to sections 103.0511, 1385  
111.15, 117.20, 119.03, 121.39, 122.08, 122.081, 122.94, and 1386  
1710.02 of the Revised Code take effect on January 1, 2012. 1387

**Section 5.** The enactment by this act of sections 108.11 to 1388

108.13 and 121.81 to 121.83 of the Revised Code first applies to a proposed rule, the original and any revised version of which is filed with the Joint Committee on Agency Rule Review on or after January 1, 2012. If rule-making proceedings are commenced and completed before January 1, 2012, sections 108.11 to 108.13 and 121.81 to 121.83 of the Revised Code do not apply to the proceedings, and section 121.24 of the Revised Code applies to the proceedings instead. If rule-making proceedings are commenced but not completed before January 1, 2012, section 121.24 of the Revised Code applies to the original version of the proposed rule if it is filed with the Joint Committee before that date, and sections 108.11 to 108.13 and 121.81 to 121.83 of the Revised Code apply to any revised version of the proposed rule that is filed on or after that date.

Section 121.24 and sections 108.11 to 108.13 and 121.81 to 121.83 of the Revised Code do not apply to a proposed rule that is deemed the original version of a proposed rule by the carry-over provisions in division (I)(2) of section 119.03 of the Revised Code. Whether section 121.24 or sections 108.11 to 108.13 and 121.81 to 121.83 of the Revised Code applied to such a proposed rule before its carry over, the results of that application are carried over with the proposed rule.

**Section 6.** The Common Sense Initiative Office shall publish the first edition of the Small Business Impact Analysis Instrument in the Register of Ohio as soon as practicable after the effective date of this act but not later than October 3, 2011.

**Section 7.** Notwithstanding the delayed effective date applying to the amendments by this act to section 103.0511 of the Revised Code, the electronic rule-filing system shall be modified to connect the Common Sense Initiative Office into the system as soon as practicable after the effective date of this act but not

later than August 15, 2011. 1420

**Section 8.** The Lieutenant Governor shall set up the Common 1421  
Sense Initiative Office and have it in operation as soon as 1422  
practicable after the effective date of this act but not later 1423  
than August 15, 2011. 1424