

As Passed by the Senate

**130th General Assembly
Regular Session
2013-2014**

Sub. S. B. No. 3

Senator LaRose

**Cosponsors: Senators Faber, Eklund, Gardner, Obhof, Widener, Uecker,
Hite, Balderson, Beagle, Coley, Patton, Jones, Manning, Lehner, Seitz,
Bacon, Burke, Oelslager, Peterson**

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A B I L L

To amend sections 101.35, 103.0511, 107.52, 107.53, 1
107.54, 107.55, 107.62, 107.63, 111.15, 117.20, 2
119.01, 119.03, 119.04, 121.39, 121.73, 121.74, 3
121.81, 121.82, 121.83, 121.91, 126.02, 127.18, 4
1531.08, 3319.22, 3319.221, 3333.021, 3333.048, 5
3701.34, 3737.88, 3746.04, 4117.02, 4141.14, 6
5103.0325, 5117.02, 5703.14, 6111.31, and 6111.51; 7
to enact sections 101.351, 106.01, 106.02, 8
106.021, 106.022, 106.023, 106.03, 106.031, 9
106.04, 106.041, 106.042, 106.05, 107.631, 10
113.091, and 121.811; and to repeal sections 11
119.031 and 119.032 of the Revised Code to revise 12
rule-making and rule review procedures and to make 13
administrative reforms. 14

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

Section 1. That sections 101.35, 103.0511, 107.52, 107.53, 15
107.54, 107.55, 107.62, 107.63, 111.15, 117.20, 119.01, 119.03, 16
119.04, 121.39, 121.73, 121.74, 121.81, 121.82, 121.83, 121.91, 17
126.02, 127.18, 1531.08, 3319.22, 3319.221, 3333.021, 3333.048, 18

3701.34, 3737.88, 3746.04, 4117.02, 4141.14, 5103.0325, 5117.02, 19
5703.14, 6111.31, and 6111.51 be amended and that sections 20
101.351, 106.01, 106.02, 106.021, 106.022, 106.023, 106.03, 21
106.031, 106.04, 106.041, 106.042, 106.05, 107.631, 113.091, and 22
121.811 of the Revised Code be enacted to read as follows: 23

Sec. 101.35. There is hereby created in the general assembly 24
the joint committee on agency rule review. The committee shall 25
consist of five members of the house of representatives and five 26
members of the senate. Within fifteen days after the commencement 27
of the first regular session of each general assembly, the speaker 28
of the house of representatives shall appoint the members of the 29
committee from the house of representatives, and the president of 30
the senate shall appoint the members of the committee from the 31
senate. Not more than three of the members from each house shall 32
be of the same political party. In the first regular session of a 33
general assembly, the chairperson of the committee shall be 34
appointed by the speaker of the house from among the house members 35
of the committee, and the vice-chairperson shall be appointed by 36
the president of the senate from among the senate members of the 37
committee. In the second regular session of a general assembly, 38
the chairperson shall be appointed by the president of the senate 39
from among the senate members of the committee, and the 40
vice-chairperson shall be appointed by the speaker of the house 41
from among the house members of the committee. The chairperson, 42
vice-chairperson, and members of the committee shall serve until 43
their respective successors are appointed or until they are no 44
longer members of the general assembly. When a vacancy occurs 45
among the officers or members of the committee, it shall be filled 46
in the same manner as the original appointment. 47

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

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

The committee has the same powers as other standing or select 55
committees of the general assembly. Six members constitute a 56
quorum, and the concurrence of six members is required for the 57
recommendation of a concurrent resolution invalidating a proposed 58
or ~~effective~~ existing rule, ~~amendment, rescission, or part~~ 59
~~thereof, or for the suspension of a rule, amendment, rescission,~~ 60
~~or part thereof,~~ under ~~division (I) of section 119.03~~ 106.021 or 61
~~section 119.031~~ 106.031 of the Revised Code. 62

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

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

The committee may meet during periods in which the general assembly has adjourned. ~~At~~

At meetings of the committee, the committee may request a ~~rule-making~~ an agency, as defined in section ~~119.01~~ 106.01 of the Revised Code, to provide information relative to the agency's implementation of its statutory authority.

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

Sec. 101.351. The goal of the rule watch system is to provide one world wide web portal through which a person can obtain information about the rules of, and about rule-making by, state agencies.

The joint committee on agency rule review shall establish, maintain, and improve a rule watch system. The rule watch system shall be designed so that a person may register electronically to receive an electronic mail alert when an agency files a rule for review by the joint committee.

The joint committee shall integrate the common sense initiative office and the Ohio business gateway into the rule watch system. The joint committee is the principal member of the rule watch system, but shall work in collaboration with the common sense initiative office and the Ohio business gateway to achieve the integration.

Failure of the rule watch system to transmit an electronic mail alert to a person is not grounds for questioning the validity of a rule or the validity of the process by which the rule was adopted.

Sec. 103.0511. The director of the legislative service 112
commission shall establish and maintain, and enhance and improve, 113
an electronic rule-filing system connecting: 114

(A) The legislative service commission, the joint committee 115
on agency rule review, the common sense initiative office, and the 116
secretary of state; 117

(B) The governor, the senate and house of representatives, 118
and the clerks of the senate and house of representatives; 119

(C) Each agency that files rules and other rule-making and 120
rule-related documents with the legislative service commission, 121
the joint committee on agency rule review, the department of 122
aging, the governor, the common sense initiative office, the 123
secretary of state, the general assembly, or a committee of the 124
senate or house of representatives under section 106.02, 106.022, 125
106.031, 107.54, 111.15, 117.20, 119.03, ~~119.031, 119.032,~~ 126
119.0311, 119.04, ~~121.24,~~ 121.39, 121.82, 127.18, ~~4141.14, 173.01,~~ 127
or 5117.02, ~~or 5703.14~~ of the Revised Code or any other statute; 128

(D) The several publishers of the Administrative Code; 130

(E) The common sense initiative office; and 131

(F) Any other person or governmental officer or entity whose 132
inclusion in the system is required for the system to be a 133
complete electronic rule-filing system. 134

The electronic rule-filing system is to enable rules and 135
rule-making and rule-related documents to be filed, and official 136
responses to these filings to be made, exclusively by electronic 137
means. 138

Sec. 106.01. As used in sections 106.01 to 106.042 of the 139
Revised Code, as the case may be: 140

(A) "Agency" means an agency as defined in sections 111.15 and 119.01 of the Revised Code. 141
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(B) "Review date" means the review date assigned to a rule by an agency under section 111.15 or 119.04 of the Revised Code. 143
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(C) "Rule" means (1) a proposed new rule, or a proposed amendment or rescission of an existing rule, that has been filed with the joint committee on agency rule review under division (D) of section 111.15 of the Revised Code or division (C) of section 119.03 of the Revised Code or (2) an existing rule that is subject to review under sections 106.03 and 106.031 of the Revised Code. "Rule" includes an appendix to a rule. 145
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"Proposed rule" refers to the original and a revised version of a proposed rule. 152
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"Proposed rule" does not include a proposed rule that has been adopted and is being filed in final form. 154
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In sections 106.03 and 106.031 of the Revised Code, "rule" does not include a rule of a state college or university, community college district, technical college district, or state community college or a rule that is consistent with and equivalent to the form required by a federal law and that does not exceed the minimum scope and intent of that federal law. 156
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Sec. 106.02. When an agency files a proposed rule and rule summary and fiscal analysis with the joint committee on agency rule review, the joint committee shall review the proposed rule and rule summary and fiscal analysis not later than the sixty-fifth day after the day on which the proposed rule was filed with the joint committee. If, after filing the original version of a proposed rule, the agency makes a revision in the proposed rule, the agency shall file the revised proposed rule and a revised rule summary and fiscal analysis with the joint committee. If the 162
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revised proposed rule is filed thirty-five or fewer days after the 171
original version of the proposed rule was filed, the joint 172
committee shall review the revised proposed rule and revised rule 173
summary and fiscal analysis not later than the sixty-fifth day 174
after the original version of the proposed rule was filed. If, 175
however, the revised proposed rule is filed more than thirty-five 176
days after the original version of the proposed rule was filed, 177
the joint committee shall review the revised proposed rule and 178
revised rule summary and fiscal analysis not later than the 179
thirtieth day after the revised proposed rule was filed with the 180
joint committee. 181

When the original version of a proposed rule and rule summary 182
and fiscal analysis is filed with the joint committee in December, 183
the joint committee shall review the proposed rule and rule 184
summary and fiscal analysis as if the proposed rule and rule 185
summary and fiscal analysis had been filed with the joint 186
committee on the first day of the legislative session in the 187
following January. When a revised proposed rule and revised rule 188
summary and fiscal analysis is filed with the joint committee in 189
December, the joint committee shall review the revised proposed 190
rule and revised rule summary and fiscal analysis not later than 191
the thirtieth day after the first day of the legislative session 192
in the following January. 193

A revised proposed rule supersedes each earlier version of 194
the same proposed rule. 195

The joint committee shall not hold its public hearing on a 196
proposed rule earlier than the forty-first day after the proposed 197
rule was filed with the joint committee. 198

Sec. 106.021. If, upon reviewing a proposed rule or revised 199
proposed rule, the joint committee on agency rule review makes any 200

of the following findings with regard to the proposed rule or 201
revised proposed rule, the joint committee may recommend to the 202
senate and house of representatives the adoption of a concurrent 203
resolution to invalidate the proposed rule or revised proposed 204
rule or a part thereof: 205

(A) The proposed rule or revised proposed rule exceeds the 206
scope of its statutory authority. 207

(B) The proposed rule or revised proposed rule conflicts with 208
the legislative intent of the statute under which it was proposed. 209

(C) The proposed rule or revised proposed rule conflicts with 210
another proposed or existing rule. 211

(D) The proposed rule or revised proposed rule incorporates a 212
text or other material by reference and either the agency has 213
failed to file the text or other material incorporated by 214
reference as required by section 121.73 of the Revised Code or the 215
incorporation by reference fails to meet the standards stated in 216
sections 121.72, 121.75, and 121.76 of the Revised Code. 217

(E) The agency has failed to demonstrate through the business 218
impact analysis, recommendations from the common sense initiative 219
office, and the memorandum of response that the regulatory intent 220
of the proposed rule or revised proposed rule justifies its 221
adverse impact on businesses in this state. 222

(F) The agency has failed to prepare a complete and accurate 223
rule summary and fiscal analysis of the proposed rule or revised 224
proposed rule as required by section 127.18 of the Revised Code. 225

Sec. 106.022. As an alternative to recommending the adoption 226
of a concurrent resolution to invalidate a proposed rule because 227
an agency has not prepared a complete and accurate rule summary 228
and fiscal analysis addressing the fiscal effect of the proposed 229
rule on counties, townships, municipal corporations, or school 230

districts, the joint committee on agency rule review may issue a 231
finding that the rule summary and fiscal analysis is incomplete or 232
inaccurate as to that fiscal effect, and order the agency to 233
refile the proposed rule with a revised rule summary and fiscal 234
analysis that addresses that fiscal effect completely and 235
accurately. The joint committee shall transmit the finding and 236
order electronically to the agency, the secretary of state, the 237
director of the legislative service commission, and, if the 238
proposed rule is to replace an emergency rule, the governor. 239

Upon receiving the finding and order, the agency may revise 240
the rule summary and fiscal analysis completely and accurately to 241
address the fiscal effect of the proposed rule on counties, 242
townships, municipal corporations, or school districts, and then 243
refile the proposed rule and revised rule summary and fiscal 244
analysis electronically with the joint committee. 245

If the joint committee finds that the revised rule summary 246
and fiscal analysis continues incompletely or inaccurately to 247
address the fiscal effect of the proposed rule on counties, 248
townships, municipal corporations, or school districts, the joint 249
committee may recommend the adoption of a concurrent resolution to 250
invalidate the proposed rule under division (F) of section 106.021 251
of the Revised Code. The joint committee may make only one finding 252
and order with regard to the same proposed rule. 253

If the proposed rule that is the subject of a finding and 254
order is to replace an emergency rule, the governor may issue an 255
order extending the emergency rule for an additional sixty-five 256
days after the day on which the emergency rule otherwise would 257
become invalid. The governor shall transmit the order 258
electronically to the agency, the joint committee, and the 259
director of the legislative service commission. 260

Sec. 106.023. An agency may not adopt a proposed rule or revised proposed rule or file it in final form unless the proposed rule has been filed with the joint committee on agency rule review under division (D) of section 111.15 or division (C) of section 119.03 of the Revised Code and the time for the joint committee to review the proposed rule has expired without recommendation of a concurrent resolution to invalidate the proposed rule. 261-267

If, before the time for its review of a proposed rule or revised proposed rule expires, the joint committee recommends adoption of a concurrent resolution invalidating the proposed rule or revised proposed rule, the rule-making proceedings pertaining to the proposed rule or revised proposed rule are suspended, and the proposed rule or revised proposed rule may not be adopted or filed in final form during the suspension. The suspension begins when the joint committee votes to recommend invalidation of the proposed rule. The suspension expires on the earlier of the day that is six months after the day the vote was taken or the day both houses have adjourned sine die. 268-278

Upon expiration of the suspension, the rule-making proceedings may resume. If, however, during the suspension, or at any time thereafter, a concurrent resolution invalidating the proposed rule or revised proposed rule is adopted, the rule, whether then existing or still proposed, is invalid as provided in the concurrent resolution. 279-284

Sec. 106.03. Prior to the review date of an existing rule, the agency that adopted the rule shall do both of the following: 285-286

(A) Review the rule to determine all of the following: 287

(1) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was 288-290

<u>adopted;</u>	291
<u>(2) Whether the rule needs amendment or rescission to give more flexibility at the local level;</u>	292
<u>(3) Whether the rule needs amendment or rescission to eliminate unnecessary paperwork;</u>	293
<u>(4) Whether the rule incorporates a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by section 121.74 of the Revised Code and whether the incorporation by reference meets the standards stated in sections 121.72, 121.75, and 121.76 of the Revised Code;</u>	294
<u>(5) Whether the rule duplicates, overlaps with, or conflicts with other rules;</u>	295
<u>(6) Whether the rule has an adverse impact on businesses, as determined under section 107.52 of the Revised Code.</u>	296
<u>In making its review, the agency shall consider the continued need for the rule, the nature of any complaints or comments received concerning the rule, and any relevant factors that have changed in the subject matter area affected by the rule.</u>	297
<u>(B) On the basis of its review of the existing rule, the agency shall determine whether the existing rule needs to be amended or rescinded.</u>	298
<u>(1) If the existing rule needs to be amended or rescinded, the agency, on or before the review date of the existing rule, shall commence the process of amending or rescinding the existing rule in accordance with its review of the rule.</u>	299
<u>(2) If the existing rule does not need to be amended or rescinded, proceedings shall be had under section 106.031 of the Revised Code.</u>	300
<u>Upon the request of the agency that adopted an existing rule,</u>	301

the joint committee on agency rule review may extend the review 321
date of the rule to a date that is not later than one hundred 322
eighty days after the review date assigned to the rule by the 323
agency. The joint committee may further extend a review date that 324
has been extended only if doing so is appropriate under the 325
circumstances. 326

The agency that adopted an existing rule that is exempt from 327
review under this section because of the fourth paragraph in 328
division (C) of section 106.01 of the Revised Code nevertheless 329
shall file a copy of the existing rule with the joint committee. 330
The joint committee, after a hearing on the matter, and by a vote 331
of two-thirds of its members present, may determine that the rule 332
is not entitled to the exemption. Thereafter, the rule is subject 333
to review under this section. 334

Sec. 106.031. If an agency, on the basis of its review of a 335
rule under section 106.03 of the Revised Code, determines that the 336
rule does not need to be amended or rescinded, proceedings shall 337
be had as follows: 338

(A)(1) If, considering only the standard of review specified 339
in division (A)(6) of section 106.03 of the Revised Code, the rule 340
has an adverse impact on businesses, the agency shall prepare a 341
business impact analysis that describes its review of the rule 342
under that division and that explains why the regulatory intent of 343
the rule justifies its adverse impact on businesses. If the rule 344
does not have an adverse impact on businesses, the agency may 345
proceed under division (B) of this section. 346

(2) The agency shall transmit a copy of the full text of the 347
rule and the business impact analysis electronically to the common 348
sense initiative office. The office shall make the rule and 349
analysis available to the public on its web site under section 350
107.62 of the Revised Code. 351

(3) The agency shall consider any recommendations made by the office. 352
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(4) Not earlier than the sixteenth business day after transmitting the rule and analysis to the office, the agency shall either (a) proceed under divisions (A)(5) and (B) of this section or (b) commence, under division (B)(1) of section 106.03 of the Revised Code, the process of rescinding the rule or of amending the rule to incorporate into the rule features the recommendations suggest will eliminate or reduce the adverse impact the rule has on businesses. If the agency determines to amend or rescind the rule, the agency is not subject to the time limit specified in division (B)(1) of section 106.03 of the Revised Code. 354
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(5) If the agency receives recommendations from the office, and determines not to amend or rescind the rule, the agency shall prepare a memorandum of response that explains why the rule is not being rescinded or why the recommendations are not being incorporated into the rule. 364
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(B) The agency shall assign a new review date to the rule. The review date assigned shall be not later than five years after the immediately preceding review date pertaining to the rule. If the agency assigns a review date that exceeds the five-year maximum, the review date is five years after the immediately preceding review date. 369
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(C)(1) The agency shall file all the following, in electronic form, with the joint committee on agency rule review, the secretary of state, and the director of the legislative service commission: a copy of the rule specifying its new review date, a complete and accurate rule summary and fiscal analysis, and, if relevant, a business impact analysis of the rule, any recommendations received from the common sense initiative office, and any memorandum of response. 375
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(2) Subject to section 106.05 of the Revised Code, the joint committee does not have jurisdiction to review, and shall reject, the filing of a rule under division (C)(1) of this section if, at any time while the rule is in its possession, it discovers that the rule has an adverse impact on businesses and the agency has not complied with division (A) of this section. The joint committee shall electronically return a rule that is rejected to the agency, together with any documents that were part of the filing. Such a rejection does not preclude the agency from refiling the rule under division (C)(1) of this section after complying with division (A) of this section. When the filing of a rule is rejected under this division, it is as if the filing had not been made.

(D) The joint committee shall publish notice of the agency's determination not to amend or rescind the rule in the register of Ohio for four consecutive weeks after the rule is filed under division (C) of this section.

(E) During the ninety-day period after a rule is filed under division (C) of this section, but after the four-week notice period required by division (D) of this section has ended, the joint committee, by a two-thirds vote of members present, may recommend to the senate and house of representatives the adoption of a concurrent resolution invalidating the rule if the joint committee finds any of the following:

(1) The agency improperly applied the standards in division (A) of section 106.03 of the Revised Code in reviewing the rule and in determining that the rule did not need amendment or rescission.

(2) The rule has an adverse impact on businesses, and the agency has failed to demonstrate through a business impact analysis, recommendations from the common sense initiative office, and a memorandum of response that the regulatory intent of the

rule justifies its adverse impact on businesses. 415

(3) If the rule incorporates a text or other material by 416
reference, the agency failed to file, or to deposit or display, 417
the text or other material incorporated by reference as required 418
by section 121.73 or 121.74 of the Revised Code or the 419
incorporation by reference fails to meet the standards stated in 420
sections 121.72, 121.75, and 121.76 of the Revised Code. 421

If the agency fails to comply with section 106.03 or 106.031 422
of the Revised Code, the joint committee shall afford the agency 423
an opportunity to appear before the joint committee to show cause 424
why the agency has not complied with either or both of those 425
sections. If the agency appears before the joint committee at the 426
time scheduled for the agency to show cause, and fails to do so, 427
the joint committee, by vote of a majority of its members present, 428
may recommend the adoption of a concurrent resolution invalidating 429
the rule for the agency's failure to show cause. Or if the agency 430
fails to appear before the joint committee at the time scheduled 431
for the agency to show cause, the joint committee, by vote of a 432
majority of its members present, may recommend adoption of a 433
concurrent resolution invalidating the rule for the agency's 434
default. 435

When the joint committee recommends that a rule be 436
invalidated, the recommendation does not suspend operation of the 437
rule, and the rule remains operational pending action by the 438
senate and house of representatives on the concurrent resolution 439
embodying the recommendation. If the senate and house of 440
representatives adopt the concurrent resolution, the rule is 441
invalid. If, however, the senate and house of representatives do 442
not adopt the resolution, the rule continues in effect, and shall 443
next be reviewed according to the new review date assigned to the 444
rule. 445

Sec. 106.04. When the joint committee on agency rule review 446
recommends invalidation of a proposed or existing rule under 447
section 106.021 or 106.031 of the Revised Code, the chairperson of 448
the joint committee, or another member of the joint committee 449
designated by the chairperson, shall prepare the recommendation of 450
invalidation in writing. The recommendation shall identify the 451
proposed or existing rule, the agency that proposed or submitted 452
the proposed or existing rule, and the finding that caused the 453
joint committee to make the recommendation. The recommendation 454
briefly shall explain the finding. 455

The chairperson of the joint committee shall request the 456
legislative service commission to prepare a concurrent resolution 457
to invalidate the proposed or existing rule according to the 458
recommendation. The concurrent resolution shall state the finding 459
that caused the joint committee to recommend invalidation of the 460
rule. 461

Sec. 106.041. The chairperson of the joint committee on 462
agency rule review, or another member of the joint committee 463
designated by the chairperson, shall submit a concurrent 464
resolution to invalidate a proposed or existing rule to the clerk 465
of either house of the general assembly. The recommendation of 466
invalidation and a copy of the proposed or existing rule also 467
shall be submitted to the clerk along with the concurrent 468
resolution. 469

Sec. 106.042. The failure of the general assembly to adopt a 470
concurrent resolution invalidating a proposed or existing rule is 471
not a ratification of the lawfulness or reasonableness of the 472
proposed or existing rule or of the validity of the procedure by 473
which the rule was proposed or adopted. 474

Sec. 106.05. (A) If the joint committee on agency rule review 475
is reviewing a proposed or existing rule under section 106.021 or 476
106.031 of the Revised Code and is uncertain whether the rule has 477
an adverse impact on businesses, or if the rule appears to have an 478
adverse impact on businesses that has not been addressed or that 479
has been inadequately addressed, the joint committee 480
electronically may refer the rule to the common sense initiative 481
office. If an adverse impact to business has been identified and 482
that impact was not evaluated in a business impact analysis 483
previously reviewed by the common sense initiative office, the 484
joint committee electronically may rerefer that rule to the common 485
sense initiative office. The joint committee electronically may 486
transmit a memorandum to the office along with the proposed or 487
existing rule explaining specifically why it is referring or 488
rereferring the rule to the office. The joint committee 489
electronically shall notify the agency if it refers or rerefers 490
the proposed or existing rule to the office. 491

Such a referral or rereferral tolls the running of the time 492
within which the joint committee is required to recommend adoption 493
of a concurrent resolution invalidating the proposed or existing 494
rule. The time resumes running when the proposed or existing rule 495
is returned to the joint committee after the referral or 496
rereferral. The tolling does not affect the continued operation of 497
an existing rule. 498

(B) The office, within thirty days after receiving a proposed 499
or existing rule under division (A) of this section, shall 500
evaluate or reevaluate the rule to determine whether it has an 501
adverse impact on businesses, and shall proceed under division 502
(C)(1) or (2) of this section as is appropriate to its 503
determination. 504

(C)(1) If the office determined that the proposed or existing 505

rule does not have an adverse impact on businesses, the office 506
shall prepare a memorandum stating that finding. The office 507
electronically shall transmit the memorandum to the agency, and 508
electronically shall return the proposed or existing rule to the 509
joint committee. The office also electronically shall transmit a 510
copy of its memorandum to the joint committee along with the 511
proposed or existing rule. The joint committee may review or 512
reject the proposed or existing rule, the same as if the rule had 513
not been referred or rereferred to the office. If, when the 514
proposed or existing rule is returned to the joint committee, 515
fewer than thirty days remain in the time by which a concurrent 516
resolution invalidating the proposed or existing rule must be 517
recommended, the time for making such a recommendation is extended 518
until the thirtieth day after the day on which the proposed or 519
existing rule was returned to the joint committee. 520

(2) If the office determined that the proposed or existing 521
rule has an adverse impact on businesses, the office shall prepare 522
a memorandum stating that finding. The office electronically shall 523
transmit the memorandum to the agency, and electronically shall 524
transmit the memorandum and the proposed or existing rule to the 525
joint committee. The memorandum shall identify the proposed or 526
existing rule to which it relates. 527

In the case of a proposed rule, the joint committee may 528
review or reject the proposed rule the same as if the proposed 529
rule had not been referred or rereferred to the office. If, when 530
the proposed rule is returned to the joint committee, fewer than 531
thirty days remain in the time by which a concurrent resolution 532
invalidating the proposed rule must be recommended, the time for 533
making such a recommendation is extended until the thirtieth day 534
after the day on which the proposed rule was transmitted to the 535
joint committee. The agency, after considering the memorandum, may 536
revise the proposed rule. 537

In the case of an existing rule, it is the same as if the 538
agency had withdrawn the existing rule from the joint committee's 539
jurisdiction. If the agency determines, after considering the 540
memorandum, that the existing rule needs to be amended or 541
rescinded, the agency shall commence the process of doing so under 542
division (B)(1) of section 106.03 of the Revised Code. If, 543
however, the agency determines, after considering the memorandum, 544
that the existing rule does not need to be amended or rescinded, 545
the agency shall proceed with periodic review of the rule under 546
division (B)(2) of section 106.03 of the Revised Code. 547

When the joint committee gives notice that it is referring or 548
rereferring a proposed or existing rule to the common sense 549
initiative office, and when the joint committee or office 550
transmits a memorandum to the other or to an agency, the joint 551
committee or office also electronically shall transmit a copy of 552
the notice or memorandum to the director of the legislative 553
service commission. The director shall publish the notice or 554
memorandum in the register of Ohio together with a notation 555
identifying the proposed or existing rule to which the notice or 556
memorandum relates. 557

Sec. 107.52. A draft or existing rule that affects businesses 558
has an adverse impact on businesses if a provision of the draft or 559
existing rule that applies to businesses has any of the following 560
effects: 561

(A) It requires a license, permit, or any other prior 562
authorization to engage in or operate a line of business; 563

(B) It imposes a criminal penalty, a civil penalty, or 564
another sanction, or creates a cause of action, for failure to 565
comply with its terms; or 566

(C) It requires specific expenditures or the report of 567
information as a condition of compliance. 568

Sec. 107.53. The common sense initiative office shall 569
develop, and as it becomes necessary or advisable shall improve, a 570
business impact analysis instrument that shall be used as required 571
by law to evaluate draft and existing rules that might have an 572
adverse impact on businesses. The instrument shall be in writing, 573
and shall include the following: 574

(A) Standards that encourage agencies to propose draft rules, 575
and to evaluate existing rules, and proposed revisions thereto, in 576
such a manner that the rules will be as easy to understand as 577
their subject matter permits; 578

(B) Performance measures that can be applied to evaluate the 579
likely efficiency and effectiveness of a draft or existing rule in 580
achieving its regulatory objectives; 581

(C) Standards for evaluating alternative means of regulation 582
that might reduce or eliminate the adverse impact a draft or 583
existing rule might have on businesses; 584

(D) Standards that will promote transparency, predictability, 585
consistency, and flexibility in the implementation and operation 586
of a draft or existing rule, as well as an overall balance in a 587
draft or existing rule between its regulatory objectives and the 588
costs of compliance it imposes on regulated persons; 589

(E) Standards that require an agency to encourage businesses 590
that might be adversely impacted by a draft rule to participate in 591
the rule-making process, beginning at the earliest practicable 592
stage, and that will encourage businesses that are or may be 593
adversely impacted by a ~~draft~~ an existing rule to offer advice and 594
assistance to the agency when the ~~draft rule is adopted and~~ 595
existing rule is being implemented and administered; and 596

(F) Any other standards or measures, or any other criteria, 597
the office concludes will reduce or eliminate adverse impacts on 598

businesses and foster improved regulation and economic development 599
in the state. 600

Alternative means of regulation include, and are not limited 601
to, less stringent compliance or reporting requirements, less 602
stringent schedules or deadlines, consolidation or simplification 603
of requirements, establishment of performance standards to replace 604
operational standards, and exemption of businesses. 605

The instrument does not need to be adopted as a rule. The 606
office shall publish the current instrument in the register of 607
Ohio. 608

Sec. 107.54. (A)(1) When the common sense initiative office 609
receives a draft rule and business impact analysis from an agency, 610
the office shall evaluate the draft rule and analysis against the 611
business impact analysis instrument and any other relevant 612
criteria, and may prepare and transmit recommendations to the 613
agency on how the draft rule might be revised to eliminate or 614
reduce any adverse impact the draft rule might have on businesses. 615

(2) When the office receives an existing rule and business 616
impact analysis from an agency under division (A)(2) of section 617
106.031 of the Revised Code, the office shall evaluate the 618
existing rule and analysis against the business impact analysis 619
instrument and any other relevant criteria, and may prepare and 620
transmit recommendations to the agency on how the existing rule 621
might be amended or rescinded to eliminate or reduce any adverse 622
impact the existing rule has on businesses. 623

(B) The office shall transmit any such recommendations 624
electronically to the agency. If the office fails to make such a 625
transmission after receiving the draft or existing rule and 626
business impact analysis, it is as if the office had elected not 627
to make any recommendations. 628

Sec. 107.55. The common sense initiative office, annually not 629
later than the first day of February, shall prepare a report of 630
the activities of the office during the preceding calendar year. 631
The report shall include: 632

(A) A statement of the number of draft and existing rules 633
reviewed during the calendar year; 634

(B) A description of the recommendations made to agencies 635
with regard to draft and existing rules; 636

(C) An assessment of the status of the recommendations made; 637

(D) An explanation of the performance measures developed to 638
evaluate the efficiency and effectiveness of the office; 639

(E) An evaluation of the work of the office judged against 640
the performance measures; and 641

(F) Any other information the office believes will explain 642
the work of the office. 643

The office shall transmit a copy of the report to the 644
governor, the lieutenant governor, the president and minority 645
leader of the senate, and the speaker and minority leader of the 646
house of representatives. 647

Sec. 107.62. The common sense initiative office shall 648
establish a system through which any person may comment 649
concerning: 650

(A) The adverse impact on businesses a draft rule might have; 651

(B) The adverse impact on businesses that a rule currently in 652
effect is having; or 653

(C) The adverse impact on businesses the implementation or 654
administration of a rule currently in effect is having. 655

The office shall prepare a plan for the comment system, and 656

shall revise or replace the plan to improve the comment system in 657
light of learning, experience, or technological development. The 658
office shall publish the current plan for the comment system in 659
the register of Ohio. 660

At a minimum, the plan for the comment system shall provide 661
for communication of comments as follows: The office shall accept 662
comments in writing that are delivered to the office personally, 663
by mail, or by express. The office shall establish a toll-free 664
telephone number that a person may call to offer comments. (The 665
telephone number shall be connected to a recording device at its 666
answering point.) The office shall create a web site that enables 667
a person to offer comments electronically. The web site also shall 668
provide notification to the public of any draft or existing rule 669
that may have an adverse impact on businesses, which notification 670
shall include copies of the draft or existing rule and the 671
business impact analysis of the draft rule. 672

The office shall forward written, telephoned, and 673
electronically transmitted comments to the state agency having 674
jurisdiction over the rule. The office has no other duty with 675
regard to the comments. 676

Sec. 107.63. As used in this section and in section 107.631 677
of the Revised Code, "small business" means an independently owned 678
and operated for-profit or nonprofit business entity, including 679
affiliates, that has fewer than five hundred full time employees 680
or gross annual sales of less than six million dollars, and has 681
operations located in the state. 682

The small business advisory council is established in the 683
office of the governor. The council shall advise the governor, the 684
lieutenant governor, and the common sense initiative office on the 685
adverse impact draft and existing rules might have on small 686
businesses. The council shall meet at least quarterly. 687

The council consists of nine members. The governor, or the person to whom the governor has delegated responsibilities for the common sense initiative office under section 107.61 of the Revised Code, shall appoint five members, the president of the senate shall appoint two members, and the speaker of the house of representatives shall appoint two members. A member serves at the pleasure of the member's appointing authority. The appointing authorities shall consult with each other and appoint only individuals who are representative of small businesses, and shall do so in such a manner that the membership of the council is composed of representatives of small businesses that are of different sizes, engaged in different lines of business, and located in different parts of the state.

Sec. 107.631. (A) The small business advisory council shall establish and operate an entrepreneur in residence pilot program. The mission of the entrepreneur in residence pilot program is to provide for better outreach by state government to small businesses, to strengthen coordination and interaction between state government and small businesses, and to make state government programs and functions simpler, easier to access, more efficient, and more responsive to the needs of small businesses.

(B) Not later than the first day of the seventh month after the effective date of this section, the council shall do both of the following:

(1) Select not fewer than three nor more than five state agencies that have programs or perform functions affecting small businesses to participate in the entrepreneur in residence pilot program; and

(2) Assign only one entrepreneur in residence to each state agency that is participating in the entrepreneur in residence pilot program.

The offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, and attorney general are not state agencies for purposes of participation in the entrepreneur in residence pilot program. 719
720
721
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The council shall assign entrepreneurs in residence from among individuals who are representative of small businesses, and who are successful in their fields. 723
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The assignment of an entrepreneur in residence is for one year after the date on which the entrepreneur in residence is assigned to a state agency. 726
727
728

The council shall monitor the work of entrepreneurs in residence during the pilot program. A state agency shall cooperate with the council to facilitate this monitoring. 729
730
731

(C) An entrepreneur in residence shall do all of the following: 732
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(1) Facilitate meetings or forums to educate small business owners and operators about the programs or functions of the state agency that affect small businesses; 734
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(2) Facilitate in-service sessions with employees of the state agency on issues of concern to small business owners and operators; 737
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(3) Advise the state agency on how its programs and functions that affect small businesses might be improved to further the mission of the entrepreneur in residence pilot program; 740
741
742

(4) Provide technical assistance or mentorships to small businesses in accessing the programs or functions of the state agency that affect small businesses; and 743
744
745

(5) Do any other things that further the mission of the entrepreneur in residence pilot program. 746
747

(D) An entrepreneur in residence shall report directly to the 748

director or other head of the state agency. 749

An entrepreneur in residence is not entitled to compensation, 750
but is entitled to reimbursement from the state agency of the 751
actual and necessary expenses the entrepreneur in residence incurs 752
in discharge of the entrepreneur in residence's duties. 753

(E)(1) Not later than the date that is one year after an 754
entrepreneur in residence was assigned to a state agency, the 755
entrepreneur in residence shall prepare a report about the state 756
agency. In the report, the entrepreneur in residence shall make 757
recommendations to the state agency that furthers the mission of 758
the entrepreneur in residence pilot program. In particular, the 759
entrepreneur in residence shall make recommendations to the state 760
agency regarding all of the following: 761

(a) Elimination of inefficient or duplicative programs or 762
functions of the state agency that affect small businesses; 763

(b) Methods of improving the efficiency of the programs or 764
functions of the state agency that affect small businesses; 765

(c) Any new program or function affecting small businesses 766
that should be established and implemented by the state agency; 767
and 768

(d) Any other matter that will further the mission of the 769
entrepreneur in residence pilot program. 770

The entrepreneur in residence shall provide a copy of the 771
report to the council and to the state agency. 772

(2) During or upon conclusion of the entrepreneur in 773
residence pilot program, the council may convene an informal 774
working group of entrepreneurs in residence to discuss best 775
practices, experiences, and opportunities for and obstacles to 776
operating small businesses as well as the recommendations in the 777
reports prepared by the entrepreneurs in residence. 778

(F) Upon conclusion of the entrepreneur in residence pilot program, and after considering the reports of the entrepreneurs in residence and information learned from any informal working group, the council shall prepare a report on the entrepreneur in residence pilot program. In the report, the council shall recommend whether the entrepreneur in residence pilot program should be repeated with or without modifications, made permanent with or without modifications, or abandoned. The council shall append the reports of the entrepreneurs in residence to its report. If the pilot program is repeated or made permanent, an individual who previously was assigned as an entrepreneur in residence shall not be reassigned as an entrepreneur in residence.

The council shall provide a copy of its report to the common sense initiative office. The office promptly shall transmit a copy of the report to the officers designated in the last paragraph of section 107.55 of the Revised Code.

Sec. 111.15. (A) As used in this section: 795

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

(2) "Agency" means any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college

or university, community college district, technical college 810
district, or state community college. "Agency" does not include 811
the general assembly, the controlling board, the adjutant 812
general's department, or any court. 813

(3) "Internal management rule" means any rule, regulation, 814
bylaw, or standard governing the day-to-day staff procedures and 815
operations within an agency. 816

~~(4) "Substantive revision" has the same meaning as in 817
division (J) of section 119.01 of the Revised Code. 818~~

(B)(1) Any rule, other than a rule of an emergency nature, 819
adopted by any agency pursuant to this section shall be effective 820
on the tenth day after the day on which the rule in final form and 821
in compliance with division (B)(3) of this section is filed as 822
follows: 823

(a) The rule shall be filed in electronic form with both the 824
secretary of state and the director of the legislative service 825
commission; 826

(b) The rule shall be filed in electronic form with the joint 827
committee on agency rule review. Division (B)(1)(b) of this 828
section does not apply to any rule to which division (D) of this 829
section does not apply. 830

An agency that adopts or amends a rule that is subject to 831
division (D) of this section shall assign a review date to the 832
rule that is not later than five years after its effective date. 833
~~If no review date is assigned to a rule, or if a review date 834~~
assigned to a rule exceeds the five-year maximum, the review date 835
for the rule is five years after its effective date. A rule with a 836
review date is subject to review under section ~~119.032~~ 106.03 of 837
the Revised Code. This paragraph does not apply to a rule of a 838
state college or university, community college district, technical 839
college district, or state community college. 840

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

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

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

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

An emergency rule becomes invalid at the end of the ~~ninetieth~~ one hundred twentieth day it is in effect. Prior to that date, the agency may file the emergency rule as a nonemergency rule in compliance with division (B)(1) of this section. The agency may

not refile the emergency rule in compliance with division (B)(2) 873
of this section so that, upon the emergency rule becoming invalid 874
under such division, the emergency rule will continue in effect 875
without interruption for another ~~ninety-day~~ one hundred twenty-day 876
period. 877

(3) An agency shall file a rule under division (B)(1) or (2) 878
of this section in compliance with the following standards and 879
procedures: 880

(a) The rule shall be numbered in accordance with the 881
numbering system devised by the director for the Ohio 882
administrative code. 883

(b) The rule shall be prepared and submitted in compliance 884
with the rules of the legislative service commission. 885

(c) The rule shall clearly state the date on which it is to 886
be effective and the date on which it will expire, if known. 887

(d) Each rule that amends or rescinds another rule shall 888
clearly refer to the rule that is amended or rescinded. Each 889
amendment shall fully restate the rule as amended. 890

If the director of the legislative service commission or the 891
director's designee gives an agency notice pursuant to section 892
103.05 of the Revised Code that a rule filed by the agency is not 893
in compliance with the rules of the legislative service 894
commission, the agency shall within thirty days after receipt of 895
the notice conform the rule to the rules of the commission as 896
directed in the notice. 897

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) 898
of this section shall be recorded by the secretary of state and 899
the director under the title of the agency adopting the rule and 900
shall be numbered according to the numbering system devised by the 901
director. The secretary of state and the director shall preserve 902
the rules in an accessible manner. Each such rule shall be a 903

public record open to public inspection and may be transmitted to 904
any law publishing company that wishes to reproduce it. 905

(D) At least sixty-five days before a board, commission, 906
department, division, or bureau of the government of the state 907
files a rule under division (B)(1) of this section, it shall file 908
the full text of the proposed rule in electronic form with the 909
joint committee on agency rule review, and the proposed rule is 910
subject to legislative review and invalidation under ~~division (I)~~ 911
~~of section 119.03~~ 106.021 of the Revised Code. If a state board, 912
commission, department, division, or bureau makes a ~~substantive~~ 913
revision in a proposed rule after it is filed with the joint 914
committee, the state board, commission, department, division, or 915
bureau shall promptly file the full text of the proposed rule in 916
its revised form in electronic form with the joint committee. ~~The~~ 917
~~latest version of a proposed rule as filed with the joint~~ 918
~~committee supersedes each earlier version of the text of the same~~ 919
~~proposed rule. Except as provided in division (F) of this section,~~ 920
a A state board, commission, department, division, or bureau shall 921
also file the rule summary and fiscal analysis prepared under 922
section 127.18 of the Revised Code in electronic form along with a 923
proposed rule, and along with a proposed rule in revised form, 924
that is filed under this division. If a proposed rule has an 925
adverse impact on businesses, the state board, commission, 926
department, division, or bureau also shall file the business 927
impact analysis, any recommendations received from the common 928
sense initiative office, and the associated memorandum of 929
response, if any, in electronic form along with the proposed rule, 930
or the proposed rule in revised form, that is filed under this 931
division. 932

A proposed rule that is subject to legislative review under 933
this division may not be adopted and filed in final form under 934
division (B)(1) of this section unless the proposed rule has been 935

filed with the joint committee on agency rule review under this 936
division and the time for the joint committee to review the 937
proposed rule has expired without recommendation of a concurrent 938
resolution to invalidate the proposed rule. 939

As used in this division, "commission" includes the public 940
utilities commission when adopting rules under a federal or state 941
statute. 942

This division does not apply to any of the following: 943

(1) A proposed rule of an emergency nature; 944

(2) A rule proposed under section 1121.05, 1121.06, 1155.18, 945
1163.22, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 946
4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised 947
Code; 948

(3) A rule proposed by an agency other than a board, 949
commission, department, division, or bureau of the government of 950
the state; 951

(4) A proposed internal management rule of a board, 952
commission, department, division, or bureau of the government of 953
the state; 954

(5) Any proposed rule that must be adopted verbatim by an 955
agency pursuant to federal law or rule, to become effective within 956
sixty days of adoption, in order to continue the operation of a 957
federally reimbursed program in this state, so long as the 958
proposed rule contains both of the following: 959

(a) A statement that it is proposed for the purpose of 960
complying with a federal law or rule; 961

(b) A citation to the federal law or rule that requires 962
verbatim compliance. 963

(6) An initial rule proposed by the director of health to 964
impose safety standards and quality-of-care standards with respect 965

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;

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

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

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

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

Sec. 113.091. In this section, the phrase "fine or other sum
of money" refers to a pecuniary punishment however denominated.

Beginning in fiscal year 2016, if a state agency imposes a
fine or other sum of money as punishment for an act or omission,
and does so in its sole discretion, or solely by implication from
a constitutional or statutory grant of authority, any money
recovered from imposition of the fine or other sum of money shall
be deposited into the state treasury to the credit of the general
revenue fund. A state agency is not subject to this requirement if
it imposes a fine or other sum of money as punishment for an act
or omission pursuant to a constitutional or statutory mandate or
authorization that expressly contemplates such an imposition.

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

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

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

(b) Mail or send by electronic mail a copy of the proposed
rule to any person or organization that requests a copy within
five days after receipt of the request;

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

persons; 1027

(d) Conduct, on the date and at the time and place designated 1028
in the notice, a public hearing at which any person affected by 1029
the proposed rule, including statewide organizations of local 1030
government officials, may appear and be heard in person, by 1031
attorney, or both, and may present the person's or organization's 1032
position or contentions orally or in writing. 1033

~~(2) Except as otherwise provided in division (A)(2) of this 1034
section, Comply with divisions (B) to (E) of section 111.15 1035
of the Revised Code. The auditor of state is not required to file 1036
a rule summary and fiscal analysis along with any copy of a 1037
proposed rule, or proposed rule in revised form, that is filed 1038
with the joint committee on agency rule review, the secretary of 1039
state, or the director of the legislative service commission under 1040
division (D) or (E) of section 111.15 of the Revised Code. 1041~~

(B) The auditor of state shall diligently discharge the 1042
duties imposed by divisions (A)(1)(a), (b), and (c) of this 1043
section, but failure to mail or send by electronic mail any notice 1044
or copy of a proposed rule, or to consult with any person or 1045
organization, shall not invalidate any rule. 1046

(C) Notwithstanding any contrary provision of the Revised 1047
Code, the auditor of state may prepare and disseminate, to public 1048
offices and other interested persons and organizations, advisory 1049
bulletins, directives, and instructions relating to accounting and 1050
financial reporting systems, budgeting procedures, fiscal 1051
controls, and the constructions by the auditor of state of 1052
constitutional and statutory provisions, court decisions, and 1053
opinions of the attorney general. The bulletins, directives, and 1054
instructions shall be of an advisory nature only. 1055

(D) As used in this section, "rule" includes the adoption, 1056
amendment, or rescission of a rule. 1057

Sec. 119.01. As used in sections 119.01 to 119.13 of the 1058
Revised Code: 1059

(A)(1) "Agency" means, except as limited by this division, 1060
any official, board, or commission having authority to promulgate 1061
rules or make adjudications in the civil service commission, the 1062
division of liquor control, the department of taxation, the 1063
industrial commission, the bureau of workers' compensation, the 1064
functions of any administrative or executive officer, department, 1065
division, bureau, board, or commission of the government of the 1066
state specifically made subject to sections 119.01 to 119.13 of 1067
the Revised Code, and the licensing functions of any 1068
administrative or executive officer, department, division, bureau, 1069
board, or commission of the government of the state having the 1070
authority or responsibility of issuing, suspending, revoking, or 1071
canceling licenses. 1072

~~Except as otherwise provided in division (I) of this section,~~ 1073
~~sections~~ Sections 119.01 to 119.13 of the Revised Code do not 1074
apply to the public utilities commission. Sections 119.01 to 1075
119.13 of the Revised Code do not apply to the utility 1076
radiological safety board; to the controlling board; to actions of 1077
the superintendent of financial institutions and the 1078
superintendent of insurance in the taking possession of, and 1079
rehabilitation or liquidation of, the business and property of 1080
banks, savings and loan associations, savings banks, credit 1081
unions, insurance companies, associations, reciprocal fraternal 1082
benefit societies, and bond investment companies; to any action 1083
taken by the division of securities under section 1707.201 of the 1084
Revised Code; or to any action that may be taken by the 1085
superintendent of financial institutions under section 1113.03, 1086
1121.06, 1121.10, 1125.09, 1125.12, 1125.18, 1157.09, 1157.12, 1087
1157.18, 1165.09, 1165.12, 1165.18, 1349.33, 1733.35, 1733.361, 1088
1733.37, or 1761.03 of the Revised Code. 1089

Sections 119.01 to 119.13 of the Revised Code do not apply to actions of the industrial commission or the bureau of workers' compensation under sections 4123.01 to 4123.94 of the Revised Code with respect to all matters of adjudication, or to the actions of the industrial commission, bureau of workers' compensation board of directors, and bureau of workers' compensation under division (D) of section 4121.32, sections 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, 4123.442, 4127.07, divisions (B), (C), and (E) of section 4131.04, and divisions (B), (C), and (E) of section 4131.14 of the Revised Code with respect to all matters concerning the establishment of premium, contribution, and assessment rates.

(2) "Agency" also means any official or work unit having authority to promulgate rules or make adjudications in the department of job and family services, but only with respect to both of the following:

(a) The adoption, amendment, or rescission of rules that section 5101.09 of the Revised Code requires be adopted in accordance with this chapter;

(b) The issuance, suspension, revocation, or cancellation of licenses.

(B) "License" means any license, permit, certificate, commission, or charter issued by any agency. "License" does not include any arrangement whereby a person, institution, or entity furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(C) "Rule" means any rule, regulation, or standard, having a general and uniform operation, adopted, promulgated, and enforced by any agency under the authority of the laws governing such

agency, and includes any appendix to a rule. "Rule" does not
include any internal management rule of an agency unless the
internal management rule affects private rights and does not
include any guideline adopted pursuant to section 3301.0714 of the
Revised Code.

(D) "Adjudication" means the determination by the highest or
ultimate authority of an agency of the rights, duties, privileges,
benefits, or legal relationships of a specified person, but does
not include the issuance of a license in response to an
application with respect to which no question is raised, nor other
acts of a ministerial nature.

(E) "Hearing" means a public hearing by any agency in
compliance with procedural safeguards afforded by sections 119.01
to 119.13 of the Revised Code.

(F) "Person" means a person, firm, corporation, association,
or partnership.

(G) "Party" means the person whose interests are the subject
of an adjudication by an agency.

(H) "Appeal" means the procedure by which a person, aggrieved
by a finding, decision, order, or adjudication of any agency,
invokes the jurisdiction of a court.

~~(I) "Rule making agency" means any board, commission,
department, division, or bureau of the government of the state
that is required to file proposed rules, amendments, or
rescissions under division (D) of section 111.15 of the Revised
Code and any agency that is required to file proposed rules,
amendments, or rescissions under divisions (B) and (H) of section
119.03 of the Revised Code. "Rule making agency" includes the
public utilities commission. "Rule making agency" does not include
any state supported college or university.~~

~~(J) "Substantive revision" means any addition to, elimination~~

~~from, or other change in a rule, an amendment of a rule, or a~~ 1152
~~rescission of a rule, whether of a substantive or procedural~~ 1153
~~nature, that changes any of the following:~~ 1154

~~(1) That which the rule, amendment, or rescission permits,~~ 1155
~~authorizes, regulates, requires, prohibits, penalizes, rewards, or~~ 1156
~~otherwise affects;~~ 1157

~~(2) The scope or application of the rule, amendment, or~~ 1158
~~rescission.~~ 1159

~~(K)~~ "Internal management rule" means any rule, regulation, or 1160
standard governing the day-to-day staff procedures and operations 1161
within an agency. 1162

Sec. 119.03. In the adoption, amendment, or rescission of any 1163
rule, an agency shall comply with the following procedure: 1164

(A) Reasonable public notice shall be given in the register 1165
of Ohio at least thirty days prior to the date set for a hearing, 1166
in the form the agency determines. The agency shall file copies of 1167
the public notice under division (B) of this section. (The agency 1168
gives public notice in the register of Ohio when the public notice 1169
is published in the register under that division.) 1170

The public notice shall include: 1171

(1) A statement of the agency's intention to consider 1172
adopting, amending, or rescinding a rule; 1173

(2) A synopsis of the proposed rule, amendment, or rule to be 1174
rescinded or a general statement of the subject matter to which 1175
the proposed rule, amendment, or rescission relates; 1176

(3) A statement of the reason or purpose for adopting, 1177
amending, or rescinding the rule; 1178

(4) The date, time, and place of a hearing on the proposed 1179
action, which shall be not earlier than the thirty-first nor later 1180

than the fortieth day after the proposed rule, amendment, or 1181
rescission is filed under division (B) of this section. 1182

In addition to public notice given in the register of Ohio, 1183
the agency may give whatever other notice it reasonably considers 1184
necessary to ensure notice constructively is given to all persons 1185
who are subject to or affected by the proposed rule, amendment, or 1186
rescission. 1187

The agency shall provide a copy of the public notice required 1188
under division (A) of this section to any person who requests it 1189
and pays a reasonable fee, not to exceed the cost of copying and 1190
mailing. 1191

(B) The full text of the proposed rule, amendment, or rule to 1192
be rescinded, accompanied by the public notice required under 1193
division (A) of this section, shall be filed in electronic form 1194
with the secretary of state and with the director of the 1195
legislative service commission. (If in compliance with this 1196
division an agency files more than one proposed rule, amendment, 1197
or rescission at the same time, and has prepared a public notice 1198
under division (A) of this section that applies to more than one 1199
of the proposed rules, amendments, or rescissions, the agency 1200
shall file only one notice with the secretary of state and with 1201
the director for all of the proposed rules, amendments, or 1202
rescissions to which the notice applies.) The proposed rule, 1203
amendment, or rescission and public notice shall be filed as 1204
required by this division at least sixty-five days prior to the 1205
date on which the agency, in accordance with division ~~(D)~~(E) of 1206
this section, issues an order adopting the proposed rule, 1207
amendment, or rescission. 1208

If the proposed rule, amendment, or rescission incorporates a 1209
text or other material by reference, the agency shall comply with 1210
sections 121.71 to 121.76 of the Revised Code. 1211

The proposed rule, amendment, or rescission shall be 1212
available for at least thirty days prior to the date of the 1213
hearing at the office of the agency in printed or other legible 1214
form without charge to any person affected by the proposal. 1215
Failure to furnish such text to any person requesting it shall not 1216
invalidate any action of the agency in connection therewith. 1217

If the agency files a ~~substantive~~ revision in the text of the 1218
proposed rule, amendment, or rescission ~~under division (H) of this~~ 1219
~~section~~, it shall also promptly file the full text of the proposed 1220
rule, amendment, or rescission in its revised form in electronic 1221
form with the secretary of state and with the director of the 1222
legislative service commission. 1223

The agency shall file the rule summary and fiscal analysis 1224
prepared under section 127.18 of the Revised Code in electronic 1225
form along with a proposed rule, amendment, or rescission or 1226
proposed rule, amendment, or rescission in revised form that is 1227
filed with the secretary of state or the director of the 1228
legislative service commission. 1229

The agency shall file the hearing report relating to a 1230
proposed rule, amendment, or rescission in electronic form along 1231
with the proposed rule, amendment, or rescission if the hearing 1232
report is available when the proposed rule, amendment, or 1233
rescission is filed with the secretary of state or the director of 1234
the legislative service commission under this division. 1235

The director of the legislative service commission shall 1236
publish in the register of Ohio the full text of the original and 1237
each revised version of a proposed rule, amendment, or rescission; 1238
the full text of a public notice; ~~and~~ the full text of a rule 1239
summary and fiscal analysis; and the full text of a hearing report 1240
that is filed with the director under this division. 1241

(C) When an agency files a proposed rule, amendment, or 1242

rescission under division (B) of this section, it also shall file 1243
in electronic form with the joint committee on agency rule review 1244
the full text of the proposed rule, amendment, or rule to be 1245
rescinded in the same form and the public notice required under 1246
division (A) of this section. (If in compliance with this division 1247
an agency files more than one proposed rule, amendment, or 1248
rescission at the same time, and has given a public notice under 1249
division (A) of this section that applies to more than one of the 1250
proposed rules, amendments, or rescissions, the agency shall file 1251
only one notice with the joint committee for all of the proposed 1252
rules, amendments, or rescissions to which the notice applies.) 1253
The proposed rule, amendment, or rescission is subject to 1254
legislative review and invalidation under sections 106.02, 1255
106.021, and 106.022 of the Revised Code. If the agency makes a 1256
revision in a proposed rule, amendment, or rescission after it is 1257
filed with the joint committee, the agency promptly shall file the 1258
full text of the proposed rule, amendment, or rescission in its 1259
revised form in electronic form with the joint committee. 1260

An agency shall file the rule summary and fiscal analysis 1261
prepared under section 127.18 of the Revised Code in electronic 1262
form along with a proposed rule, amendment, or rescission, and 1263
along with a proposed rule, amendment, or rescission in revised 1264
form, that is filed under this division. 1265

If a proposed rule, amendment, or rescission has an adverse 1266
impact on businesses, the agency also shall file the business 1267
impact analysis, any recommendations received from the common 1268
sense initiative office, and the agency's memorandum of response, 1269
if any, in electronic form along with the proposed rule, 1270
amendment, or rescission, or along with the proposed rule, 1271
amendment, or rescission in revised form, that is filed under this 1272
division. 1273

If the hearing report is available when the proposed rule, 1274

amendment, or rescission is filed, or when the hearing report 1275
later becomes available, the agency shall file the hearing report 1276
in electronic form with the joint committee along with the 1277
proposed rule, amendment, or rescission or at a later time with 1278
reference to the proposed rule, amendment, or rescission. (The 1279
later filing of a hearing report does not constitute a revision of 1280
the proposed rule, amendment, or rescission to which the hearing 1281
report relates.) If the hearing report is later filed, the joint 1282
committee shall transmit a copy of the hearing report in 1283
electronic form to the director of the legislative service 1284
commission. The director shall publish the hearing report in the 1285
register of Ohio. 1286

A proposed rule, amendment, or rescission that is subject to 1287
legislative review under this division may not be adopted under 1288
division (E) of this section or filed in final form under section 1289
119.04 of the Revised Code unless the proposed rule, amendment, or 1290
rescission has been filed with the joint committee on agency rule 1291
review under this division and the time for the joint committee to 1292
review the proposed rule, amendment, or rescission has expired 1293
without recommendation of a concurrent resolution to invalidate 1294
the proposed rule, amendment, or rescission. 1295

This division does not apply to: 1296

(1) An emergency rule, amendment, or rescission; 1297

(2) A proposed rule, amendment, or rescission that must be 1298
adopted verbatim by an agency pursuant to federal law or rule, to 1299
become effective within sixty days of adoption, in order to 1300
continue the operation of a federally reimbursed program in this 1301
state, so long as the proposed rule contains both of the 1302
following: 1303

(a) A statement that it is proposed for the purpose of 1304
complying with a federal law or rule; 1305

(b) A citation to the federal law or rule that requires 1306
verbatim compliance. 1307

If a rule or amendment is exempt from legislative review 1308
under division (C)(2) of this section, and if the federal law or 1309
rule pursuant to which the rule or amendment was adopted expires, 1310
is repealed or rescinded, or otherwise terminates, the rule or 1311
amendment, or its rescission, is thereafter subject to legislative 1312
review under division (C) of this section. 1313

(D) On the date and at the time and place designated in the 1314
notice, the agency shall conduct a public hearing at which any 1315
person affected by the proposed action of the agency may appear 1316
and be heard in person, by the person's attorney, or both, may 1317
present the person's position, arguments, or contentions, orally 1318
or in writing, offer and examine witnesses, and present evidence 1319
tending to show that the proposed rule, amendment, or rescission, 1320
if adopted or effectuated, will be unreasonable or unlawful. An 1321
agency may permit persons affected by the proposed rule, 1322
amendment, or rescission to present their positions, arguments, or 1323
contentions in writing, not only at the hearing, but also for a 1324
reasonable period before, after, or both before and after the 1325
hearing. A person who presents a position or arguments or 1326
contentions in writing before or after the hearing is not required 1327
to appear at the hearing. 1328

At the hearing, the testimony shall be recorded. Such record 1329
shall be made at the expense of the agency. The agency is required 1330
to transcribe a record that is not sight readable only if a person 1331
requests transcription of all or part of the record and agrees to 1332
reimburse the agency for the costs of the transcription. An agency 1333
may require the person to pay in advance all or part of the cost 1334
of the transcription. 1335

In any hearing under this section the agency may administer 1336
oaths or affirmations. 1337

The agency shall consider the positions, arguments, or contentions presented at, or before or after, the hearing. The agency shall prepare a hearing summary of the positions, arguments, or contentions, and of the issues raised by the positions, arguments, or contentions. The agency then shall prepare a hearing report explaining, with regard to each issue, how it is reflected in the rule, amendment, or rescission. If an issue is not reflected in the rule, amendment, or rescission, the hearing report shall explain why the issue is not reflected. The agency shall include the hearing summary in the hearing report as an appendix thereto. And, in the hearing report, the agency shall identify the proposed rule, amendment, or rescission to which the hearing report relates.

~~(D)~~(E) After ~~complying with~~ divisions (A), (B), (C), and ~~(H)~~(D) of this section have been complied with, and when the time for legislative review and invalidation under ~~division (I) of this section~~ sections 106.02, 106.022, and 106.023 of the Revised Code has expired without recommendation of a concurrent resolution to invalidate the proposed rule, amendment, or rescission, 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 filed in its final form as provided in section 119.04 of the Revised Code.

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

~~(F)~~(G) If the governor, upon the request of an agency, 1370
determines that an emergency requires the immediate adoption, 1371
amendment, or rescission of a rule, the governor shall issue an 1372
order, the text of which shall be filed in electronic form with 1373
the agency, the secretary of state, the director of the 1374
legislative service commission, and the joint committee on agency 1375
rule review, that the procedure prescribed by this section with 1376
respect to the adoption, amendment, or rescission of a specified 1377
rule is suspended. The agency may then adopt immediately the 1378
emergency rule, amendment, or rescission and it becomes effective 1379
on the date the rule, amendment, or rescission, in final form and 1380
in compliance with division (A)(2) of section 119.04 of the 1381
Revised Code, is filed in electronic form with the secretary of 1382
state, the director of the legislative service commission, and the 1383
joint committee on agency rule review. If all filings are not 1384
completed on the same day, the emergency rule, amendment, or 1385
rescission shall be effective on the day on which the latest 1386
filing is completed. The director shall publish the full text of 1387
the emergency rule, amendment, or rescission in the register of 1388
Ohio. 1389

The emergency rule, amendment, or rescission shall become 1390
invalid at the end of the ~~ninetieth~~ one hundred twentieth day it 1391
is in effect. Prior to that date the agency may adopt the 1392
emergency rule, amendment, or rescission as a nonemergency rule, 1393
amendment, or rescission by complying with the procedure 1394
prescribed by this section for the adoption, amendment, and 1395
rescission of nonemergency rules. The agency shall not use the 1396
procedure of this division to readopt the emergency rule, 1397
amendment, or rescission so that, upon the emergency rule, 1398
amendment, or rescission becoming invalid under this division, the 1399
emergency rule, amendment, or rescission will continue in effect 1400
without interruption for another ~~ninety-day~~ one hundred twenty-day 1401
period, except when ~~division (I)(2)(a) of this section~~ 106.02 of 1402

the Revised Code prevents the agency from adopting the emergency 1403
rule, amendment, or rescission as a nonemergency rule, amendment, 1404
or rescission within the ~~ninety-day~~ one hundred twenty-day period. 1405

This division does not apply to the adoption of any emergency 1406
rule, amendment, or rescission by the tax commissioner under 1407
division (C)(2) of section 5117.02 of the Revised Code. 1408

~~(G)~~(H) Rules adopted by an authority within the department of 1409
job and family services for the administration or enforcement of 1410
Chapter 4141. of the Revised Code or of the department of taxation 1411
shall be effective without a hearing as provided by this section 1412
if the statutes pertaining to such agency specifically give a 1413
right of appeal to the board of tax appeals or to a higher 1414
authority within the agency or to a court, and also give the 1415
appellant a right to a hearing on such appeal. This division does 1416
not apply to the adoption of any rule, amendment, or rescission by 1417
the tax commissioner under division (C)(1) or (2) of section 1418
5117.02 of the Revised Code, or deny the right to file an action 1419
for declaratory judgment as provided in Chapter 2721. of the 1420
Revised Code from the decision of the board of tax appeals or of 1421
the higher authority within such agency. 1422

~~(H) When any agency files a proposed rule, amendment, or 1423
rescission under division (B) of this section, it shall also file 1424
in electronic form with the joint committee on agency rule review 1425
the full text of the proposed rule, amendment, or rule to be 1426
rescinded in the same form and the public notice required under 1427
division (A) of this section. (If in compliance with this division 1428
an agency files more than one proposed rule, amendment, or 1429
rescission at the same time, and has given a public notice under 1430
division (A) of this section that applies to more than one of the 1431
proposed rules, amendments, or rescissions, the agency shall file 1432
only one notice with the joint committee for all of the proposed 1433
rules, amendments, or rescissions to which the notice applies.) If 1434~~

~~the agency makes a substantive revision in a proposed rule, 1435
amendment, or rescission after it is filed with the joint 1436
committee, the agency shall promptly file the full text of the 1437
proposed rule, amendment, or rescission in its revised form in 1438
electronic form with the joint committee. The latest version of a 1439
proposed rule, amendment, or rescission as filed with the joint 1440
committee supersedes each earlier version of the text of the same 1441
proposed rule, amendment, or rescission. An agency shall file the 1442
rule summary and fiscal analysis prepared under section 127.18 of 1443
the Revised Code in electronic form along with a proposed rule, 1444
amendment, or rescission, and along with a proposed rule, 1445
amendment, or rescission in revised form, that is filed under this 1446
division. If a proposed rule, amendment, or rescission has an 1447
adverse impact on businesses, the agency also shall file the 1448
business impact analysis, any recommendations received from the 1449
common sense initiative office, and the agency's memorandum of 1450
response, if any, in electronic form along with the proposed rule, 1451
amendment, or rescission, or along with the proposed rule, 1452
amendment, or rescission in revised form, that is filed under this 1453
division. 1454~~

~~This division does not apply to: 1455~~

~~(1) An emergency rule, amendment, or rescission; 1456~~

~~(2) Any proposed rule, amendment, or rescission that must be 1457
adopted verbatim by an agency pursuant to federal law or rule, to 1458
become effective within sixty days of adoption, in order to 1459
continue the operation of a federally reimbursed program in this 1460
state, so long as the proposed rule contains both of the 1461
following: 1462~~

~~(a) A statement that it is proposed for the purpose of 1463
complying with a federal law or rule; 1464~~

~~(b) A citation to the federal law or rule that requires 1465~~

~~verbatim compliance.~~ 1466

~~If a rule or amendment is exempt from legislative review 1467
under division (H)(2) of this section, and if the federal law or 1468
rule pursuant to which the rule or amendment was adopted expires, 1469
is repealed or rescinded, or otherwise terminates, the rule or 1470
amendment, or its rescission, is thereafter subject to legislative 1471
review under division (H) of this section. 1472~~

~~(I)(1) The joint committee on agency rule review may 1473
recommend the adoption of a concurrent resolution invalidating a 1474
proposed rule, amendment, rescission, or part thereof if it finds 1475
any of the following: 1476~~

~~(a) That the rule making agency has exceeded the scope of its 1477
statutory authority in proposing the rule, amendment, or 1478
rescission; 1479~~

~~(b) That the proposed rule, amendment, or rescission 1480
conflicts with another rule, amendment, or rescission adopted by 1481
the same or a different rule making agency; 1482~~

~~(c) That the proposed rule, amendment, or rescission 1483
conflicts with the legislative intent in enacting the statute 1484
under which the rule making agency proposed the rule, amendment, 1485
or rescission; 1486~~

~~(d) That the rule making agency has failed to prepare a 1487
complete and accurate rule summary and fiscal analysis of the 1488
proposed rule, amendment, or rescission as required by section 1489
127.18 of the Revised Code; 1490~~

~~(e) That the proposed rule, amendment, or rescission 1491
incorporates a text or other material by reference and either the 1492
rule making agency has failed to file the text or other material 1493
incorporated by reference as required by section 121.73 of the 1494
Revised Code or, in the case of a proposed rule or amendment, the 1495
incorporation by reference fails to meet the standards stated in 1496~~

~~section 121.72, 121.75, or 121.76 of the Revised Code;~~ 1497

~~(f) That the rule making agency has failed to demonstrate 1498
through the business impact analysis, recommendations from the 1499
common sense initiative office, and the memorandum of response the 1500
agency has filed under division (H) of this section that the 1501
regulatory intent of the proposed rule, amendment, or rescission 1502
justifies its adverse impact on businesses in this state. 1503~~

~~The joint committee shall not hold its public hearing on a 1504
proposed rule, amendment, or rescission earlier than the 1505
forty first day after the original version of the proposed rule, 1506
amendment, or rescission was filed with the joint committee. 1507~~

~~The house of representatives and senate may adopt a 1508
concurrent resolution invalidating a proposed rule, amendment, 1509
rescission, or part thereof. The concurrent resolution shall state 1510
which of the specific rules, amendments, rescissions, or parts 1511
thereof are invalidated. A concurrent resolution invalidating a 1512
proposed rule, amendment, or rescission shall be adopted not later 1513
than the sixty fifth day after the original version of the text of 1514
the proposed rule, amendment, or rescission is filed with the 1515
joint committee, except that if more than thirty five days after 1516
the original version is filed the rule making agency either files 1517
a revised version of the text of the proposed rule, amendment, or 1518
rescission, or revises the rule summary and fiscal analysis in 1519
accordance with division (I)(4) of this section, a concurrent 1520
resolution invalidating the proposed rule, amendment, or 1521
rescission shall be adopted not later than the thirtieth day after 1522
the revised version of the proposed rule or rule summary and 1523
fiscal analysis is filed. If, after the joint committee on agency 1524
rule review recommends the adoption of a concurrent resolution 1525
invalidating a proposed rule, amendment, rescission, or part 1526
thereof, the house of representatives or senate does not, within 1527
the time remaining for adoption of the concurrent resolution, hold 1528~~

~~five floor sessions at which its journal records a roll call vote 1529
disclosing a sufficient number of members in attendance to pass a 1530
bill, the time within which that house may adopt the concurrent 1531
resolution is extended until it has held five such floor sessions. 1532~~

~~Within five days after the adoption of a concurrent 1533
resolution invalidating a proposed rule, amendment, rescission, or 1534
part thereof, the clerk of the senate shall send the rule making 1535
agency, the secretary of state, and the director of the 1536
legislative service commission in electronic form a certified text 1537
of the resolution together with a certification stating the date 1538
on which the resolution takes effect. The secretary of state and 1539
the director of the legislative service commission shall each note 1540
the invalidity of the proposed rule, amendment, rescission, or 1541
part thereof, and shall each remove the invalid proposed rule, 1542
amendment, rescission, or part thereof from the file of proposed 1543
rules. The rule making agency shall not proceed to adopt in 1544
accordance with division (D) of this section, or to file in 1545
accordance with division (B)(1) of section 111.15 of the Revised 1546
Code, any version of a proposed rule, amendment, rescission, or 1547
part thereof that has been invalidated by concurrent resolution. 1548~~

~~Unless the house of representatives and senate adopt a 1549
concurrent resolution invalidating a proposed rule, amendment, 1550
rescission, or part thereof within the time specified by this 1551
division, the rule making agency may proceed to adopt in 1552
accordance with division (D) of this section, or to file in 1553
accordance with division (B)(1) of section 111.15 of the Revised 1554
Code, the latest version of the proposed rule, amendment, or 1555
rescission as filed with the joint committee. If by concurrent 1556
resolution certain of the rules, amendments, rescissions, or parts 1557
thereof are specifically invalidated, the rule making agency may 1558
proceed to adopt, in accordance with division (D) of this section, 1559
or to file in accordance with division (B)(1) of section 111.15 of 1560~~

~~the Revised Code, the latest version of the proposed rules, 1561
amendments, rescissions, or parts thereof as filed with the joint 1562
committee that are not specifically invalidated. The rule making 1563
agency may not revise or amend any proposed rule, amendment, 1564
rescission, or part thereof that has not been invalidated except 1565
as provided in this chapter or in section 111.15 of the Revised 1566
Code. 1567~~

~~(2)(a) A proposed rule, amendment, or rescission that is 1568
filed with the joint committee under division (H) of this section 1569
or division (D) of section 111.15 of the Revised Code shall be 1570
carried over for legislative review to the next succeeding regular 1571
session of the general assembly if the original or any revised 1572
version of the proposed rule, amendment, or rescission is filed 1573
with the joint committee on or after the first day of December of 1574
any year. 1575~~

~~(b) The latest version of any proposed rule, amendment, or 1576
rescission that is subject to division (I)(2)(a) of this section, 1577
as filed with the joint committee, is subject to legislative 1578
review and invalidation in the next succeeding regular session of 1579
the general assembly in the same manner as if it were the original 1580
version of a proposed rule, amendment, or rescission that had been 1581
filed with the joint committee for the first time on the first day 1582
of the session. A rule making agency shall not adopt in accordance 1583
with division (D) of this section, or file in accordance with 1584
division (B)(1) of section 111.15 of the Revised Code, any version 1585
of a proposed rule, amendment, or rescission that is subject to 1586
division (I)(2)(a) of this section until the time for legislative 1587
review and invalidation, as contemplated by division (I)(2)(b) of 1588
this section, has expired. 1589~~

~~(3) Invalidation of any version of a proposed rule, 1590
amendment, rescission, or part thereof by concurrent resolution 1591
shall prevent the rule making agency from instituting or 1592~~

~~continuing proceedings to adopt any version of the same proposed 1593
rule, amendment, rescission, or part thereof for the duration of 1594
the general assembly that invalidated the proposed rule, 1595
amendment, rescission, or part thereof unless the same general 1596
assembly adopts a concurrent resolution permitting the rule making 1597
agency to institute or continue such proceedings. 1598~~

~~The failure of the general assembly to invalidate a proposed 1599
rule, amendment, rescission, or part thereof under this section 1600
shall not be construed as a ratification of the lawfulness or 1601
reasonableness of the proposed rule, amendment, rescission, or any 1602
part thereof or of the validity of the procedure by which the 1603
proposed rule, amendment, rescission, or any part thereof was 1604
proposed or adopted. 1605~~

~~(4) In lieu of recommending a concurrent resolution to 1606
invalidate a proposed rule, amendment, rescission, or part thereof 1607
because the rule making agency has failed to prepare a complete 1608
and accurate fiscal analysis, the joint committee on agency rule 1609
review may issue, on a one time basis, for rules, amendments, 1610
rescissions, or parts thereof that have a fiscal effect on school 1611
districts, counties, townships, or municipal corporations, a 1612
finding that the rule summary and fiscal analysis is incomplete or 1613
inaccurate and order the rule making agency to revise the rule 1614
summary and fiscal analysis and refile it with the proposed rule, 1615
amendment, rescission, or part thereof. If an emergency rule is 1616
filed as a nonemergency rule before the end of the ninetieth day 1617
of the emergency rule's effectiveness, and the joint committee 1618
issues a finding and orders the rule making agency to refile under 1619
division (I)(4) of this section, the governor may also issue an 1620
order stating that the emergency rule shall remain in effect for 1621
an additional sixty days after the ninetieth day of the emergency 1622
rule's effectiveness. The governor's orders shall be filed in 1623
accordance with division (F) of this section. The joint committee 1624~~

~~shall send in electronic form to the rule making agency, the secretary of state, and the director of the legislative service commission a certified text of the finding and order to revise the rule summary and fiscal analysis, which shall take immediate effect.~~

~~An order issued under division (I)(4) of this section shall prevent the rule making agency from instituting or continuing proceedings to adopt any version of the proposed rule, amendment, rescission, or part thereof until the rule making agency revises the rule summary and fiscal analysis and refiles it in electronic form with the joint committee along with the proposed rule, amendment, rescission, or part thereof. If the joint committee finds the rule summary and fiscal analysis to be complete and accurate, the joint committee shall issue a new order noting that the rule making agency has revised and refiled a complete and accurate rule summary and fiscal analysis. The joint committee shall send in electronic form to the rule making agency, the secretary of state, and the director of the legislative service commission a certified text of this new order. The secretary of state and the director of the legislative service commission shall each link this order to the proposed rule, amendment, rescission, or part thereof. The rule making agency may then proceed to adopt in accordance with division (D) of this section, or to file in accordance with division (B)(1) of section 111.15 of the Revised Code, the proposed rule, amendment, rescission, or part thereof that was subject to the finding and order under division (I)(4) of this section. If the joint committee determines that the revised rule summary and fiscal analysis is still inaccurate or incomplete, the joint committee shall recommend the adoption of a concurrent resolution in accordance with division (I)(1) of this section.~~

Sec. 119.04. (A)(1) Any rule adopted by any agency shall be

effective on the tenth day after the day on which the rule in 1657
final form and in compliance with division (A)(2) of this section 1658
is filed as follows: 1659

(a) The rule shall be filed in electronic form with both the 1660
secretary of state and the director of the legislative service 1661
commission; 1662

(b) The rule shall be filed in electronic form with the joint 1663
committee on agency rule review. Division (A)(1)(b) of this 1664
section does not apply to any rule to which division ~~(H)~~(C) of 1665
section 119.03 of the Revised Code does not apply. 1666

~~If all filings are not completed on the same day, the rule~~ 1667
~~shall be effective on the tenth day after the day on which the~~ 1668
~~latest filing is completed.~~ If an agency in adopting a rule 1669
designates an effective date that is later than the effective date 1670
provided for by this division, the rule if filed as required by 1671
this division shall become effective on the later date designated 1672
by the agency. 1673

An agency that adopts or amends a rule that is subject to 1674
~~division (H) of section 119.03~~ 106.03 of the Revised Code shall 1675
assign a review date to the rule that is not later than five years 1676
after its effective date. ~~If no review date is assigned to a rule,~~ 1677
~~or if~~ a review date assigned to a rule exceeds the five-year 1678
maximum, the review date for the rule is five years after its 1679
effective date. A rule with a review date is subject to review 1680
under section ~~119.032~~ 106.03 of the Revised Code. This paragraph 1681
does not apply to the department of taxation. 1682

(2) The agency shall file the rule in compliance with the 1683
following standards and procedures: 1684

(a) The rule shall be numbered in accordance with the 1685
numbering system devised by the director for the Ohio 1686
administrative code. 1687

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

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

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

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

(3) As used in this section, "rule" includes an amendment or rescission of a rule.

(B) The secretary of state and the director shall preserve the rules filed under division (A)(1)(a) of this section in an accessible manner. Each such rule shall be a public record open to public inspection and may be transmitted to any law publishing company that wishes to reproduce it.

~~Any rule that has been adopted in compliance with section 119.03 of the Revised Code and that is in effect before January 1, 1977, may be divided into sections, numbered, provided with a subject heading, and filed with the secretary of state and the director to comply with the provisions of this section without carrying out the adoption procedure required by section 119.03 of the Revised Code. The codification of existing rules to comply with this section shall not constitute adoption, amendment, or rescission.~~

Sec. 121.39. (A) As used in this section, "environmental

protection" means any of the following: 1718

(1) Protection of human health or safety, biological 1719
resources, or natural resources by preventing, reducing, or 1720
remediating the pollution or degradation of air, land, or water 1721
resources or by preventing or limiting the exposure of humans, 1722
animals, or plants to pollution; 1723

(2) Appropriation or regulation of privately owned property 1724
to preserve air, land, or water resources in a natural state or to 1725
wholly or partially restore them to a natural state; 1726

(3) Regulation of the collection, management, treatment, 1727
reduction, storage, or disposal of solid, hazardous, radioactive, 1728
or other wastes; 1729

(4) Plans or programs to promote or regulate the 1730
conservation, recycling, or reuse of energy, materials, or wastes. 1731

(B) Except as otherwise provided in division (E) of this 1732
section, when proposed legislation dealing with environmental 1733
protection or containing a component dealing with environmental 1734
protection is referred to a committee of the general assembly, 1735
other than a committee on rules or reference, the sponsor of the 1736
legislation, at the time of the first hearing of the legislation 1737
before the committee, shall submit to the members of the committee 1738
a written statement identifying either the documentation that is 1739
the basis of the legislation or the federal requirement or 1740
requirements with which the legislation is intended to comply. If 1741
the legislation is not based on documentation or has not been 1742
introduced to comply with a federal requirement or requirements, 1743
the written statement from the sponsor shall so indicate. 1744

Also at the time of the first hearing of the legislation 1745
before the committee, a statewide organization that represents 1746
businesses in this state and that elects its board of directors 1747
may submit to the members of the committee a written estimate of 1748

the costs to the regulated community in this state of complying 1749
with the legislation if it is enacted. 1750

At any hearing of the legislation before the committee, a 1751
representative of any state agency, environmental advocacy 1752
organization, or consumer advocacy organization or any private 1753
citizen may present documentation containing an estimate of the 1754
monetary and other costs to public health and safety and the 1755
environment and to consumers and residential utility customers, 1756
and the effects on property values, if the legislation is not 1757
enacted. 1758

(C) Until such time as the statement required under division 1759
(B) of this section is submitted to the committee to which 1760
proposed legislation dealing with environmental protection or 1761
containing a component dealing with environmental protection was 1762
referred, the legislation shall not be reported by that committee. 1763
This requirement does not apply if the component dealing with 1764
environmental protection is removed from the legislation or if 1765
two-thirds of the members of the committee vote in favor of a 1766
motion to report the proposed legislation. 1767

(D) Except as otherwise provided in division (E) of this 1768
section, prior to adopting a rule or an amendment proposed to a 1769
rule dealing with environmental protection or containing a 1770
component dealing with environmental protection, a state agency 1771
shall do all of the following: 1772

(1) Consult with organizations that represent political 1773
subdivisions, environmental interests, business interests, and 1774
other persons affected by the proposed rule or amendment; 1775

(2) Consider documentation relevant to the need for, the 1776
environmental benefits or consequences of, other benefits of, and 1777
the technological feasibility of the proposed rule or amendment; 1778

(3) Specifically identify whether the proposed rule or 1779

amendment is being adopted or amended to enable the state to 1780
obtain or maintain approval to administer and enforce a federal 1781
environmental law or to participate in a federal environmental 1782
program, whether the proposed rule or amendment is more stringent 1783
than its federal counterpart, and, if the proposed rule or 1784
amendment is more stringent, the rationale for not incorporating 1785
its federal counterpart; 1786

(4) Include with the proposed rule or amendment and the rule 1787
summary and fiscal analysis required under section 127.18 of the 1788
Revised Code, when they are filed with the joint committee on 1789
agency rule review in accordance with division (D) of section 1790
111.15 or division ~~(H)~~(C) of section 119.03 of the Revised Code, 1791
one of the following in electronic form, as applicable: 1792

(a) The information identified under division (D)(3) of this 1793
section and, if the proposed rule or amendment is more stringent 1794
than its federal counterpart, as identified in that division, the 1795
documentation considered under division (D)(2) of this section; 1796

(b) If an amendment proposed to a rule is being adopted or 1797
amended under a state statute that establishes standards with 1798
which the amendment shall comply, and the proposed amendment is 1799
more stringent than the rule that it is proposing to amend, the 1800
documentation considered under division (D)(2) of this section; 1801

(c) If division (D)(4)(a) or (b) of this section is not 1802
applicable, the documentation considered under division (D)(2) of 1803
this section. 1804

If the agency subsequently files a revision of such a 1805
proposed rule or amendment in accordance with division (D) of 1806
section 111.15 or division ~~(H)~~(C) of section 119.03 of the Revised 1807
Code, the revision shall be accompanied in electronic form by the 1808
applicable information or documentation. 1809

Division (D) of this section does not apply to any emergency 1810

rule adopted under division (B)(2) of section 111.15 or division 1811
(~~F~~)(G) of section 119.03 of the Revised Code, but does apply to 1812
any such rule that subsequently is adopted as a nonemergency rule 1813
under either of those divisions. 1814

The information or documentation submitted under division 1815
(D)(4) of this section may be in the form of a summary or index of 1816
available knowledge or information and shall consist of or be 1817
based upon the best available generally accepted knowledge or 1818
information in the appropriate fields, as determined by the agency 1819
that prepared the documentation. 1820

(E) The statement required under division (B) and the 1821
information or documentation required under division (D) of this 1822
section need not be prepared or submitted with regard to a 1823
proposed statute or rule, or an amendment to a rule, if the 1824
statute, rule, or amendment is procedural or budgetary in nature, 1825
or governs the organization or operation of a state agency, and 1826
will not affect the substantive rights or obligations of any 1827
person other than a state agency or an employee or contractor of a 1828
state agency. 1829

(F) The insufficiency, incompleteness, or inadequacy of a 1830
statement, information, documentation, or a summary of information 1831
or documentation provided in accordance with division (B) or (D) 1832
of this section shall not be grounds for invalidation of any 1833
statute, rule, or amendment to a rule. 1834

(G) This section applies only to the following: 1835

(1) Legislation and components of legislation dealing with 1836
environmental protection that are introduced in the general 1837
assembly after March 5, 1996; 1838

(2) Rules and rule amendments dealing with environmental 1839
protection that are filed with the joint committee on agency rule 1840
review in accordance with division (D) of section 111.15 or 1841

division ~~(H)~~(C) of section 119.03 of the Revised Code after March 1842
5, 1996. 1843

Sec. 121.73. As used in this section, "rule" has the same 1844
meaning as in section 121.71 of the Revised Code and also includes 1845
the rescission of an existing rule. 1846

(A) When an agency files the original or a revised version of 1847
a rule in proposed form under division (D) of section 111.15 or 1848
division ~~(H)~~(C) of section 119.03, or a rule for review under 1849
section ~~119.032~~ 106.03 of the Revised Code, that incorporates a 1850
text or other material by reference, the agency also shall file in 1851
electronic form, one complete and accurate copy of the text or 1852
other material incorporated by reference with the joint committee 1853
on agency rule review. An agency is not, however, required to file 1854
a text or other material incorporated by reference with the joint 1855
committee if the agency revises a rule in proposed form that 1856
incorporates a text or other material by reference and the 1857
incorporation by reference in the revised version of the rule is 1858
identical to the incorporation by reference in the preceding 1859
version of the rule. 1860

If it is infeasible for the agency to file a text or other 1861
material incorporated by reference electronically, the agency, as 1862
soon as possible, but not later than three days after completing 1863
the electronic filing, shall deliver one complete and accurate 1864
copy of the text or other material incorporated by reference to 1865
the joint committee, and shall attach a memorandum to the text or 1866
other material identifying the filing to which it relates. 1867

An agency is not required to file a text or other material 1868
incorporated by reference into a rule that is proposed for 1869
rescission if it is infeasible for the agency to do so. 1870

An agency shall not file a copy of a text or other material 1871
incorporated by reference with the secretary of state or with the 1872

director of the legislative service commission. 1873

(B) Upon completing its review of a rule in proposed form, or 1874
its review of a rule, that incorporates a text or other material 1875
by reference, the joint committee shall forward its copy of the 1876
text or other material incorporated by reference to the director 1877
of the legislative service commission. The director shall maintain 1878
a file of texts and other materials that are or were incorporated 1879
by reference into rules. 1880

Sec. 121.74. As used in this section, "rule" has the same 1881
meaning as in section 121.71 of the Revised Code and also includes 1882
the rescission of an existing rule. 1883

When an agency files a rule in final form under division 1884
(B)(1) of section 111.15, or division (A)(1) of section 119.04, 1885
~~division (B)(1) of section 1141.14, or division (A) of section~~ 1886
~~5703.14~~ of the Revised Code that incorporates or incorporated a 1887
text or other material by reference, the agency, prior to the 1888
effective date of the rule, shall either: 1889

(A) Deposit one complete and accurate copy of the text or 1890
other material incorporated by reference in each of the five 1891
depository libraries designated by the state library board; or 1892

(B) Display a complete and accurate copy of the text or other 1893
material incorporated by reference on a web site maintained or 1894
made available by the agency. 1895

An agency is not required to comply with this section if the 1896
text or other material incorporated by reference is identical to a 1897
text or other material the agency, at the time compliance with 1898
this section otherwise would be required, already is depositing or 1899
displaying under this section. 1900

Sec. 121.81. As used in sections 121.81 to 121.83 of the 1901
Revised Code: 1902

(A) "Agency" means a state agency that is required to file proposed rules for legislative review under division (D) of section 111.15 or division ~~(H)~~(C) of section 119.03 of the Revised Code. ~~"Agency" does not include the offices of governor, lieutenant governor, auditor of state, secretary of state, treasurer of state, or attorney general.~~

(B) "Draft rule" means any newly proposed rule and any proposed amendment, adoption, or rescission of a rule prior to the filing of that rule for legislative review under division (D) of section 111.15 or division ~~(H)~~(C) of section 119.03 of the Revised Code and includes a proposed amendment, adoption, or rescission of a rule in both its original and any revised form. "Draft rule" does not include an emergency rule adopted under division (B)(2) of section 111.15 or division ~~(F)~~(G) of section 119.03 of the Revised Code, but does include a rule that is proposed to replace an emergency rule that expires under those divisions.

Sections 121.81 to 121.83 and 121.91 of the Revised Code are complementary to sections 107.51 to 107.55 and 107.61 to 107.63 of the Revised Code.

Sec. 121.811. The offices of the governor, lieutenant governor, auditor of state, secretary of state, treasurer of state, and attorney general shall comply with the business review provisions of sections 106.03 and 106.031 and 121.81 to 121.83 of the Revised Code, but are not required to submit any document to the common sense initiative office or to prepare any document that would have been prepared in response to recommendations of the common sense initiative office, but rather shall prepare all other documents required under the business review provisions and submit them directly to the joint committee on agency rule review along with the proposed or existing rule. The offices of the governor, lieutenant governor, auditor of state, secretary of state,

treasurer of state, and attorney general are subject, however, to 1934
section 106.05 of the Revised Code. 1935

Sec. 121.82. In the course of developing a draft rule that is 1936
intended to be proposed under division (D) of section 111.15 or 1937
division ~~(H)~~(C) of section 119.03 of the Revised Code, an agency 1938
shall: 1939

(A) Evaluate the draft rule against the business impact 1940
analysis instrument. If, based on that evaluation, the draft rule 1941
will not have an adverse impact on businesses, the agency may 1942
proceed with the rule-filing process. If the evaluation determines 1943
that the draft rule will have an adverse impact on businesses, the 1944
agency shall incorporate features into the draft rule that will 1945
eliminate or adequately reduce any adverse impact the draft rule 1946
might have on businesses; 1947

(B) Prepare a business impact analysis that describes its 1948
evaluation of the draft rule against the business impact analysis 1949
instrument, that identifies any features that were incorporated 1950
into the draft rule as a result of the evaluation, and that 1951
explains how those features, if there were any, eliminate or 1952
adequately reduce any adverse impact the draft rule might have on 1953
businesses; 1954

(C) Transmit a copy of the full text of the draft rule and 1955
the business impact analysis electronically to the common sense 1956
initiative office, which information shall be made available to 1957
the public on the office's web site in accordance with section 1958
107.62 of the Revised Code; 1959

(D) Consider any recommendations made by the common sense 1960
initiative office with regard to the draft rule, and either 1961
incorporate into the draft rule features the recommendations 1962
suggest will eliminate or reduce any adverse impact the draft rule 1963
might have on businesses or document, in writing, the reasons 1964

those recommendations are not being incorporated into the draft 1965
rule; and 1966

(E) Prepare a memorandum of response identifying features 1967
suggested by any recommendations that were incorporated into the 1968
draft rule and features suggested by any recommendations that were 1969
not incorporated into the draft rule, explaining how the features 1970
that were incorporated into the draft rule eliminate or reduce any 1971
adverse impact the draft rule might have on businesses, and 1972
explaining why the features that were not incorporated into the 1973
draft rule were not incorporated. 1974

An agency may not file a proposed rule for legislative review 1975
under division (D) of section 111.15 or division ~~(H)~~(C) of section 1976
119.03 of the Revised Code earlier than the sixteenth business day 1977
after electronically transmitting the draft rule to the common 1978
sense initiative office. 1979

Sec. 121.83. (A) When an agency files a proposed rule for 1980
legislative review under division (D) of section 111.15 of the 1981
Revised Code or division (H) of section 119.03 of the Revised 1982
Code, the agency electronically shall file one copy of the 1983
business impact analysis, any recommendations received from the 1984
common sense initiative office, and the agency's memorandum of 1985
response, if any, along with the proposed rule. 1986

(B) ~~The~~ (1) Subject to section 106.05 of the Revised Code, 1987
the joint committee on agency rule review does not have 1988
jurisdiction to review, and shall reject, the filing of a proposed 1989
rule if, at any time while the proposed rule is in its possession, 1990
it discovers that the proposed rule might have an adverse impact 1991
on businesses and the agency has not included with the filing a 1992
business impact analysis or has included a business impact 1993
analysis that is inadequately prepared. The joint committee 1994
electronically shall return a filing that is rejected to the 1995

agency. Such a rejection does not preclude the agency from 1996
refiling the proposed rule after complying with section 121.82 of 1997
the Revised Code. When a filing is rejected under this division, 1998
it is as if the filing had not been made. 1999

(2) If the last previously filed version of a proposed rule, 2000
the filing of a later version of which has been rejected by the 2001
joint committee, remains in the possession of the joint committee, 2002
and if the time for legislative review of that previously filed 2003
version has expired, or if fewer than thirty days remain before 2004
the time for legislative review of that previously filed version 2005
expires, then the time for legislative review of that previously 2006
filed version is revived or extended, and recommendation of a 2007
concurrent resolution to invalidate that previously filed version 2008
may be adopted not later than the sixty-fifth day after the day on 2009
which the filing of the later version of the proposed rule was 2010
rejected. This deadline is subject to extension under section 2011
106.02 of the Revised Code. 2012

Sec. 121.91. (A) Each state agency shall develop, and as it 2013
becomes necessary or advisable may improve, customer service 2014
standards for each employee of the agency whose duties include a 2015
significant level of contact with the public. The agency shall 2016
base the standards on the job descriptions of the positions that 2017
the employees hold in the agency. An agency is not required to 2018
adopt the standards by rule. A state agency that is created after 2019
the effective date of this amendment shall develop its initial 2020
customer service standards within six months after the effective 2021
date of the statute that creates the state agency. 2022

Each state agency shall reduce the standards to writing, and 2023
the standards shall be incorporated into employee policy manuals, 2024
job descriptions, and employee performance evaluations. 2025

The agency shall post its customer service standards, and any 2026

revisions therein, on its web site or, if the agency does not 2027
maintain a web site, on the state public notice web site. 2028

The common sense initiative office, upon the request of an 2029
agency, may review the agency's customer service standards and 2030
transmit any comments it has with regard to the standards to the 2031
agency. 2032

(B) The state agency, and its officers and employees, shall 2033
comply with the customer service performance standards that have 2034
been developed under division (A) of this section. A state 2035
agency's compliance with the standards shall be evaluated, by the 2036
director of budget and management and the committees of the senate 2037
and house of representatives having jurisdiction over the state 2038
operating budget, as part of the consideration of the state 2039
agency's biennial budget. (If the evaluation is of the office of 2040
budget and management, evaluation by the committees is 2041
sufficient.) An employee's compliance with the standards shall be 2042
evaluated as part of the employee's periodic performance reviews. 2043
A state agency's and employee's compliance with the standards may 2044
be evaluated as part of any performance audit of the state agency. 2045

Sec. 126.02. The director of budget and management shall 2046
prepare and submit to the governor, biennially, not later than the 2047
first day of January preceding the convening of the general 2048
assembly, state budget estimates of revenues and expenditures for 2049
each state fund and budget estimates for each state agency, except 2050
such estimates as are required under section 126.022 of the 2051
Revised Code. The budget estimates for each state agency for which 2052
direct appropriations are proposed shall include the following 2053
details: 2054

(A) Estimates of the operating budget; 2055

(B) Estimates of the subsidy appropriations necessary, 2056
delineated by a distinct subsidy program; 2057

(C) Estimates for special purposes, delineated by a distinct special purpose program;

(D) Estimates of appropriations necessary from each fund in reasonable detail to allow for adequate planning and oversight of programs and activities.

In the preparation of state revenue and expenditure estimates, the director of budget and management shall, not later than the fifteenth day of September in the year preceding the first regular session of the general assembly, distribute to all affected state agencies the forms necessary for the preparation of budget requests, which shall be in the form prescribed by the director in consultation with the legislative service commission to procure information concerning the revenues and expenditures for the preceding and current bienniums, an estimate of the revenues and expenditures of the current fiscal year, and an estimate of the revenues and proposed expenditures for the respective agencies for the two succeeding fiscal years for which appropriations have to be made. The form shall require an agency also separately to report revenues received from fines or other sums of money imposed by the agency as contemplated by section 113.091 of the Revised Code. Each such agency shall, not later than the first day of November, file with the director its estimate of revenues and proposed expenditures for the succeeding biennium.

Each such agency shall, not later than the first day of December, file with the chairperson of the finance committees of the senate and house of representatives and the legislative service commission a duplicate copy of such budget request.

The budget request shall be accompanied by a statement in writing giving facts and explanation of reasons for the items requested. The director and the legislative service commission may make further inquiry and investigation as to any item desired. The

director may approve, disapprove, or alter the requests, excepting 2090
those for the legislative and judicial branches of the state. The 2091
requests as revised by the director constitute the state budget 2092
estimates of revenues and expenditures which the director is 2093
required to submit to the governor. 2094

The director shall determine a method to incorporate the 2095
principles of zero-based budgeting into the forms prescribed in 2096
this section. 2097

Sec. 127.18. (A) As used in this section: 2098

(1) "~~Rule-making agency~~ Agency" has the same meaning as 2099
defined in division (I) of section 119.01 106.01 of the Revised 2100
Code. 2101

(2) "Rule" includes the adoption, amendment, or rescission of 2102
a rule. 2103

(3) "Proposed rule" means the original version of a proposed 2104
rule, and each revised version of the same proposed rule, that is 2105
filed with the joint committee on agency rule review under 2106
division (D) of section 111.15 or division ~~(H)~~(C) of section 2107
119.03 of the Revised Code. 2108

(B) ~~A rule-making~~ An agency shall prepare, in the form 2109
prescribed by the joint committee on agency rule review ~~under~~ 2110
~~division (E) of this section~~, a complete and accurate rule summary 2111
and fiscal analysis of each proposed rule that it files under 2112
division (D) of section 111.15 or division ~~(H)~~(C) of section 2113
119.03 of the Revised Code. The rule summary and fiscal analysis 2114
shall include all of the following information: 2115

(1) The name, address, and telephone number of the 2116
~~rule-making~~ agency, and the name ~~and~~, telephone number, and 2117
electronic mail address of an individual or office within the 2118
agency designated by that agency to be responsible for 2119

coordinating and making available information in the possession of	2120
the agency regarding the proposed rule;	2121
(2) The Ohio Administrative Code rule number of the proposed	2122
rule;	2123
(3) A brief summary of, and the legal basis for, the proposed	2124
rule, including citations identifying the statute that prescribes	2125
the procedure in accordance with which the rule-making agency is	2126
required to adopt the proposed rule, the statute that authorizes	2127
the agency to adopt the proposed rule, and the statute that the	2128
agency intends to amplify or implement by adopting the proposed	2129
rule;	2130
(4) An estimate, in dollars, of the amount by which the	2131
proposed rule would increase or decrease revenues or expenditures	2132
during the current biennium;	2133
(5) A citation identifying the appropriation that authorizes	2134
each expenditure that would be necessitated by the proposed rule;	2135
(6) A summary of the estimated cost of compliance with the	2136
rule to all directly affected persons;	2137
(7) The reasons why the rule is being proposed;	2138
(8) If the rule has a fiscal effect on school districts,	2139
counties, townships, or municipal corporations, an estimate in	2140
dollars of the cost of compliance with the rule, or, if dollar	2141
amounts cannot be determined, a written explanation of why it was	2142
not possible to ascertain dollar amounts;	2143
(9) If the rule has a fiscal effect on school districts,	2144
counties, townships, or municipal corporations and is the result	2145
of a federal requirement, a clear explanation that the proposed	2146
state rule does not exceed the scope and intent of the	2147
requirement, or, if the state rule does exceed the minimum	2148
necessary federal requirement, a justification of the excess cost,	2149

and an estimate of the costs, including those costs for local governments, exceeding the federal requirement;

(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.

(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;

(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.

(C) The ~~rule-making~~ agency shall file the rule summary and 2181
fiscal analysis in electronic form along with the proposed rule 2182
that it files under ~~divisions~~ division (D) and ~~(E)~~ of section 2183
111.15 or divisions (B) and ~~(H)~~(C) of section 119.03 of the 2184
Revised Code. The joint committee on agency rule review shall not 2185
accept any proposed rule for filing unless a copy of the rule 2186
summary and fiscal analysis of the proposed rule, completely and 2187
accurately prepared, is filed along with the proposed rule. 2188

(D) The joint committee on agency rule review shall review 2189
the fiscal effect of each proposed rule that is filed under 2190
division (D) of section 111.15 or division ~~(H)~~(C) of section 2191
119.03 of the Revised Code. 2192

(E) The joint committee on agency rule review shall prescribe 2193
the form in which each ~~rule-making~~ agency shall prepare its rule 2194
summary and fiscal analysis of a proposed rule. 2195

~~(F) This section does not require the auditor of state or the 2196
auditor of state's designee to prepare or attach a rule summary 2197
and fiscal analysis to any copy of a rule proposed under section 2198
117.12, 117.19, 117.38, or 117.43 of the Revised Code. 2199~~

Sec. 1531.08. In conformity with Section 36 of Article II, 2200
Ohio Constitution, providing for the passage of laws for the 2201
conservation of the natural resources of the state, including 2202
streams, lakes, submerged lands, and swamplands, and in conformity 2203
with this chapter and Chapter 1533. of the Revised Code, the chief 2204
of the division of wildlife has authority and control in all 2205
matters pertaining to the protection, preservation, propagation, 2206
possession, and management of wild animals and may adopt rules 2207
under section 1531.10 of the Revised Code for the management of 2208
wild animals. Notwithstanding division (B) of section 119.03 of 2209
the Revised Code, such rules in proposed form shall be filed under 2210
this section. Each year there shall be a public fish hearing and 2211

public game hearing. The results of the investigation and public 2212
hearing shall be filed in the office of the chief and shall be 2213
kept open for public inspection during all regular office hours. 2214
Modifying or rescinding such rules does not require a public 2215
hearing. 2216

The chief may adopt, amend, rescind, and enforce rules 2217
throughout the state or in any part or waters thereof as provided 2218
by sections 1531.08 to 1531.12 and other sections of the Revised 2219
Code. The rules shall be filed in proposed form and available at 2220
the central wildlife office and at each of the wildlife district 2221
offices, including the Lake Erie unit located at Sandusky, at 2222
least thirty days prior to the date of the hearing required by 2223
division ~~(C)~~(D) of section 119.03 of the Revised Code. The rules 2224
shall be based upon a public hearing and investigation of the best 2225
available biological information derived from professionally 2226
accepted practices in wildlife and fisheries management. 2227

Each rule adopted under this section shall clearly and 2228
distinctly describe and set forth the waters or area or part 2229
thereof affected by the rule and whether the rule is applicable to 2230
all wild animals or only to certain kinds of species designated 2231
therein. 2232

The chief may regulate any of the following: 2233

(A) Taking and possessing wild animals, at any time and place 2234
or in any number, quantity, or length, and in any manner, and with 2235
such devices as ~~he~~ the chief prescribes; 2236

(B) Transportation of such animals or any part thereof; 2237

(C) Buying, selling, offering for sale, or exposing for sale 2238
any such animal or part thereof; 2239

(D) Taking, possessing, transporting, buying, selling, 2240
offering for sale, and exposing for sale commercial fish or any 2241
part thereof, including species taken, length, weight, method of 2242

taking, mesh sizes, specifications of nets and other fishing devices, seasons, and time and place of taking.

When the chief increases the size of a fish named in section 1533.63 of the Revised Code, any fish that were legally taken, caught, or possessed prior to the increase may be possessed after the increase if the possession of the fish has been reported to the chief prior to the increase, but on or after the date of the increase the fish may not be sold to a buyer in this state.

Sec. 3319.22. (A)(1) The state board of education shall issue the following educator licenses:

(a) A resident educator license, which shall be valid for four years, except that the state board, on a case-by-case basis, may extend the license's duration as necessary to enable the license holder to complete the Ohio teacher residency program established under section 3319.223 of the Revised Code;

(b) A professional educator license, which shall be valid for five years and shall be renewable;

(c) A senior professional educator license, which shall be valid for five years and shall be renewable;

(d) A lead professional educator license, which shall be valid for five years and shall be renewable.

(2) The state board may issue any additional educator licenses of categories, types, and levels the board elects to provide.

(3) The state board shall adopt rules establishing the standards and requirements for obtaining each educator license issued under this section.

(B) The rules adopted under this section shall require at least the following standards and qualifications for the educator licenses described in division (A)(1) of this section:

(1) An applicant for a resident educator license shall hold 2273
at least a bachelor's degree from an accredited teacher 2274
preparation program or be a participant in the teach for America 2275
program and meet the qualifications required under section 2276
3319.227 of the Revised Code. 2277

(2) An applicant for a professional educator license shall: 2278

(a) Hold at least a bachelor's degree from an institution of 2279
higher education accredited by a regional accrediting 2280
organization; 2281

(b) Have successfully completed the Ohio teacher residency 2282
program established under section 3319.223 of the Revised Code, if 2283
the applicant's current or most recently issued license is a 2284
resident educator license issued under this section or an 2285
alternative resident educator license issued under section 3319.26 2286
of the Revised Code. 2287

(3) An applicant for a senior professional educator license 2288
shall: 2289

(a) Hold at least a master's degree from an institution of 2290
higher education accredited by a regional accrediting 2291
organization; 2292

(b) Have previously held a professional educator license 2293
issued under this section or section 3319.222 or under former 2294
section 3319.22 of the Revised Code; 2295

(c) Meet the criteria for the accomplished or distinguished 2296
level of performance, as described in the standards for teachers 2297
adopted by the state board under section 3319.61 of the Revised 2298
Code. 2299

(4) An applicant for a lead professional educator license 2300
shall: 2301

(a) Hold at least a master's degree from an institution of 2302

higher education accredited by a regional accrediting organization; 2303
2304

(b) Have previously held a professional educator license or a senior professional educator license issued under this section or a professional educator license issued under section 3319.222 or former section 3319.22 of the Revised Code; 2305
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(c) Meet the criteria for the distinguished level of performance, as described in the standards for teachers adopted by the state board under section 3319.61 of the Revised Code; 2309
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2311

(d) Either hold a valid certificate issued by the national board for professional teaching standards or meet the criteria for a master teacher or other criteria for a lead teacher adopted by the educator standards board under division (F)(4) or (5) of section 3319.61 of the Revised Code. 2312
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(C) The state board shall align the standards and qualifications for obtaining a principal license with the standards for principals adopted by the state board under section 3319.61 of the Revised Code. 2317
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(D) If the state board requires any examinations for educator licensure, the department of education shall provide the results of such examinations received by the department to the chancellor of the Ohio board of regents, in the manner and to the extent permitted by state and federal law. 2321
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(E) Any rules the state board of education adopts, amends, or rescinds for educator licenses under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows: 2326
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(1) Notwithstanding division ~~(D)~~(E) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, in the case of the adoption of any rule or the amendment or rescission of any 2331
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rule that necessitates institutions' offering preparation programs 2334
for educators and other school personnel that are approved by the 2335
chancellor of the Ohio board of regents under section 3333.048 of 2336
the Revised Code to revise the curriculum of those programs, the 2337
effective date shall not be as prescribed in division ~~(D)~~(E) of 2338
section 119.03 and division (A)(1) of section 119.04 of the 2339
Revised Code. Instead, the effective date of such rules, or the 2340
amendment or rescission of such rules, shall be the date 2341
prescribed by section 3333.048 of the Revised Code. 2342

(2) Notwithstanding the authority to adopt, amend, or rescind 2343
emergency rules in division ~~(F)~~(G) of section 119.03 of the 2344
Revised Code, this authority shall not apply to the state board of 2345
education with regard to rules for educator licenses. 2346

(F)(1) The rules adopted under this section establishing 2347
standards requiring additional coursework for the renewal of any 2348
educator license shall require a school district and a chartered 2349
nonpublic school to establish local professional development 2350
committees. In a nonpublic school, the chief administrative 2351
officer shall establish the committees in any manner acceptable to 2352
such officer. The committees established under this division shall 2353
determine whether coursework that a district or chartered 2354
nonpublic school teacher proposes to complete meets the 2355
requirement of the rules. The department of education shall 2356
provide technical assistance and support to committees as the 2357
committees incorporate the professional development standards 2358
adopted by the state board of education pursuant to section 2359
3319.61 of the Revised Code into their review of coursework that 2360
is appropriate for license renewal. The rules shall establish a 2361
procedure by which a teacher may appeal the decision of a local 2362
professional development committee. 2363

(2) In any school district in which there is no exclusive 2364
representative established under Chapter 4117. of the Revised 2365

Code, the professional development committees shall be established 2366
as described in division (F)(2) of this section. 2367

Not later than the effective date of the rules adopted under 2368
this section, the board of education of each school district shall 2369
establish the structure for one or more local professional 2370
development committees to be operated by such school district. The 2371
committee structure so established by a district board shall 2372
remain in effect unless within thirty days prior to an anniversary 2373
of the date upon which the current committee structure was 2374
established, the board provides notice to all affected district 2375
employees that the committee structure is to be modified. 2376
Professional development committees may have a district-level or 2377
building-level scope of operations, and may be established with 2378
regard to particular grade or age levels for which an educator 2379
license is designated. 2380

Each professional development committee shall consist of at 2381
least three classroom teachers employed by the district, one 2382
principal employed by the district, and one other employee of the 2383
district appointed by the district superintendent. For committees 2384
with a building-level scope, the teacher and principal members 2385
shall be assigned to that building, and the teacher members shall 2386
be elected by majority vote of the classroom teachers assigned to 2387
that building. For committees with a district-level scope, the 2388
teacher members shall be elected by majority vote of the classroom 2389
teachers of the district, and the principal member shall be 2390
elected by a majority vote of the principals of the district, 2391
unless there are two or fewer principals employed by the district, 2392
in which case the one or two principals employed shall serve on 2393
the committee. If a committee has a particular grade or age level 2394
scope, the teacher members shall be licensed to teach such grade 2395
or age levels, and shall be elected by majority vote of the 2396
classroom teachers holding such a license and the principal shall 2397

be elected by all principals serving in buildings where any such 2398
teachers serve. The district superintendent shall appoint a 2399
replacement to fill any vacancy that occurs on a professional 2400
development committee, except in the case of vacancies among the 2401
elected classroom teacher members, which shall be filled by vote 2402
of the remaining members of the committee so selected. 2403

Terms of office on professional development committees shall 2404
be prescribed by the district board establishing the committees. 2405
The conduct of elections for members of professional development 2406
committees shall be prescribed by the district board establishing 2407
the committees. A professional development committee may include 2408
additional members, except that the majority of members on each 2409
such committee shall be classroom teachers employed by the 2410
district. Any member appointed to fill a vacancy occurring prior 2411
to the expiration date of the term for which a predecessor was 2412
appointed shall hold office as a member for the remainder of that 2413
term. 2414

The initial meeting of any professional development 2415
committee, upon election and appointment of all committee members, 2416
shall be called by a member designated by the district 2417
superintendent. At this initial meeting, the committee shall 2418
select a chairperson and such other officers the committee deems 2419
necessary, and shall adopt rules for the conduct of its meetings. 2420
Thereafter, the committee shall meet at the call of the 2421
chairperson or upon the filing of a petition with the district 2422
superintendent signed by a majority of the committee members 2423
calling for the committee to meet. 2424

(3) In the case of a school district in which an exclusive 2425
representative has been established pursuant to Chapter 4117. of 2426
the Revised Code, professional development committees shall be 2427
established in accordance with any collective bargaining agreement 2428
in effect in the district that includes provisions for such 2429

committees. 2430

If the collective bargaining agreement does not specify a 2431
different method for the selection of teacher members of the 2432
committees, the exclusive representative of the district's 2433
teachers shall select the teacher members. 2434

If the collective bargaining agreement does not specify a 2435
different structure for the committees, the board of education of 2436
the school district shall establish the structure, including the 2437
number of committees and the number of teacher and administrative 2438
members on each committee; the specific administrative members to 2439
be part of each committee; whether the scope of the committees 2440
will be district levels, building levels, or by type of grade or 2441
age levels for which educator licenses are designated; the lengths 2442
of terms for members; the manner of filling vacancies on the 2443
committees; and the frequency and time and place of meetings. 2444
However, in all cases, except as provided in division (F)(4) of 2445
this section, there shall be a majority of teacher members of any 2446
professional development committee, there shall be at least five 2447
total members of any professional development committee, and the 2448
exclusive representative shall designate replacement members in 2449
the case of vacancies among teacher members, unless the collective 2450
bargaining agreement specifies a different method of selecting 2451
such replacements. 2452

(4) Whenever an administrator's coursework plan is being 2453
discussed or voted upon, the local professional development 2454
committee shall, at the request of one of its administrative 2455
members, cause a majority of the committee to consist of 2456
administrative members by reducing the number of teacher members 2457
voting on the plan. 2458

(G)(1) The department of education, educational service 2459
centers, county boards of developmental disabilities, regional 2460
professional development centers, special education regional 2461

resource centers, college and university departments of education, 2462
head start programs, the eTech Ohio commission, and the Ohio 2463
education computer network may establish local professional 2464
development committees to determine whether the coursework 2465
proposed by their employees who are licensed or certificated under 2466
this section or section 3319.222 of the Revised Code, or under the 2467
former version of either section as it existed prior to October 2468
16, 2009, meet the requirements of the rules adopted under this 2469
section. They may establish local professional development 2470
committees on their own or in collaboration with a school district 2471
or other agency having authority to establish them. 2472

Local professional development committees established by 2473
county boards of developmental disabilities shall be structured in 2474
a manner comparable to the structures prescribed for school 2475
districts in divisions (F)(2) and (3) of this section, as shall 2476
the committees established by any other entity specified in 2477
division (G)(1) of this section that provides educational services 2478
by employing or contracting for services of classroom teachers 2479
licensed or certificated under this section or section 3319.222 of 2480
the Revised Code, or under the former version of either section as 2481
it existed prior to October 16, 2009. All other entities specified 2482
in division (G)(1) of this section shall structure their 2483
committees in accordance with guidelines which shall be issued by 2484
the state board. 2485

(2) Any public agency that is not specified in division 2486
(G)(1) of this section but provides educational services and 2487
employs or contracts for services of classroom teachers licensed 2488
or certificated under this section or section 3319.222 of the 2489
Revised Code, or under the former version of either section as it 2490
existed prior to October 16, 2009, may establish a local 2491
professional development committee, subject to the approval of the 2492
department of education. The committee shall be structured in 2493

accordance with guidelines issued by the state board. 2494

Sec. 3319.221. (A) The state board of education shall adopt 2495
rules establishing the standards and requirements for obtaining a 2496
school nurse license and a school nurse wellness coordinator 2497
license. At a minimum, the rules shall require that an applicant 2498
for a school nurse license be licensed as a registered nurse under 2499
Chapter 4723. of the Revised Code. 2500

(B) If the state board requires any examinations for 2501
licensure under this section, the department of education shall 2502
provide the examination results received by the department to the 2503
chancellor of the Ohio board of regents, in the manner and to the 2504
extent permitted by state and federal law. 2505

(C) Any rules for licenses described in this section that the 2506
state board adopts, amends, or rescinds under this section, 2507
division (D) of section 3301.07 of the Revised Code, or any other 2508
law shall be adopted, amended, or rescinded under Chapter 119. of 2509
the Revised Code, except that the authority to adopt, amend, or 2510
rescind emergency rules under division ~~(F)~~(G) of section 119.03 of 2511
the Revised Code shall not apply to the state board with respect 2512
to rules for licenses described in this section. 2513

(D) Any registered nurse employed by a school district in the 2514
capacity of school nurse on January 1, 1973, or any registered 2515
nurse employed by a city or general health district on January 1, 2516
1973, to serve full-time in the capacity of school nurse in one or 2517
more school districts, shall be considered to have fulfilled the 2518
requirements for the issuance of a school nurse license under this 2519
section. 2520

Sec. 3333.021. As used in this section, "university" means 2521
any college or university that receives a state appropriation. 2522

(A) This division does not apply to proposed rules, 2523

amendments, or rescissions subject to legislative review under 2524
~~division (I) of~~ section ~~119.03~~ 106.02 of the Revised Code. No 2525
action taken by the chancellor of the Ohio board of regents that 2526
could reasonably be expected to have an effect on the revenue or 2527
expenditures of any university shall take effect unless at least 2528
two weeks prior to the date on which the action is taken, the 2529
chancellor has filed with the speaker of the house of 2530
representatives, the president of the senate, the legislative 2531
budget office of the legislative service commission, and the 2532
director of budget and management a fiscal analysis of the 2533
proposed action. The analysis shall include an estimate of the 2534
amount by which, during the current and ensuing fiscal biennium, 2535
the action would increase or decrease the university's revenues or 2536
expenditures and increase or decrease any state expenditures and 2537
any other information the chancellor considers necessary to 2538
explain the action's fiscal effect. 2539

(B) Within three days of the date the chancellor files with 2540
the clerk of the senate a proposed rule, amendment, or rescission 2541
that is subject to legislative review and invalidation under 2542
~~division (I) of~~ section ~~119.03~~ 106.02 of the Revised Code, the 2543
chancellor shall file with the speaker of the house of 2544
representatives, the president of the senate, ~~the legislative~~ 2545
~~budget office of~~ the legislative service commission, and the 2546
director of budget and management a fiscal analysis of the 2547
proposed rule. The analysis shall include an estimate of the 2548
amount by which, during the current and ensuing fiscal biennium, 2549
the action would increase or decrease any university's revenues or 2550
expenditures and increase or decrease state revenues or 2551
expenditures and any other information the chancellor considers 2552
necessary to explain the fiscal effect of the rule, amendment, or 2553
rescission. No rule, amendment, or rescission shall take effect 2554
unless the chancellor has complied with this division. 2555

Sec. 3333.048. (A) Not later than one year after October 16, 2556
2009, the chancellor of the Ohio board of regents and the 2557
superintendent of public instruction jointly shall do the 2558
following: 2559

(1) In accordance with Chapter 119. of the Revised Code, 2560
establish metrics and educator preparation programs for the 2561
preparation of educators and other school personnel and the 2562
institutions of higher education that are engaged in their 2563
preparation. The metrics and educator preparation programs shall 2564
be aligned with the standards and qualifications for educator 2565
licenses adopted by the state board of education under section 2566
3319.22 of the Revised Code and the requirements of the Ohio 2567
teacher residency program established under section 3319.223 of 2568
the Revised Code. The metrics and educator preparation programs 2569
also shall ensure that educators and other school personnel are 2570
adequately prepared to use the value-added progress dimension 2571
prescribed by section 3302.021 of the Revised Code or the 2572
alternative student academic progress measure if adopted under 2573
division (C)(1)(e) of section 3302.03 of the Revised Code. 2574

(2) Provide for the inspection of institutions of higher 2575
education desiring to prepare educators and other school 2576
personnel. 2577

(B) Not later than one year after October 16, 2009, the 2578
chancellor shall approve institutions of higher education engaged 2579
in the preparation of educators and other school personnel that 2580
maintain satisfactory training procedures and records of 2581
performance, as determined by the chancellor. 2582

(C) If the metrics established under division (A)(1) of this 2583
section require an institution of higher education that prepares 2584
teachers to satisfy the standards of an independent accreditation 2585
organization, the chancellor shall permit each institution to 2586

satisfy the standards of either the national council for 2587
accreditation of teacher education or the teacher education 2588
accreditation council. 2589

(D) The metrics and educator preparation programs established 2590
under division (A)(1) of this section may require an institution 2591
of higher education, as a condition of approval by the chancellor, 2592
to make changes in the curricula of its preparation programs for 2593
educators and other school personnel. 2594

Notwithstanding division ~~(D)~~(E) of section 119.03 and 2595
division (A)(1) of section 119.04 of the Revised Code, any 2596
metrics, educator preparation programs, rules, and regulations, or 2597
any amendment or rescission of such metrics, educator preparation 2598
programs, rules, and regulations, adopted under this section that 2599
necessitate institutions offering preparation programs for 2600
educators and other school personnel approved by the chancellor to 2601
revise the curricula of those programs shall not be effective for 2602
at least one year after the first day of January next succeeding 2603
the publication of the said change. 2604

Each institution shall allocate money from its existing 2605
appropriations to pay the cost of making the curricular changes. 2606

(E) The chancellor shall notify the state board of the 2607
metrics and educator preparation programs established under 2608
division (A)(1) of this section and the institutions of higher 2609
education approved under division (B) of this section. The state 2610
board shall publish the metrics, educator preparation programs, 2611
and approved institutions with the standards and qualifications 2612
for each type of educator license. 2613

(F) The graduates of institutions of higher education 2614
approved by the chancellor shall be licensed by the state board in 2615
accordance with the standards and qualifications adopted under 2616
section 3319.22 of the Revised Code. 2617

Sec. 3701.34. (A) The Ohio public health advisory board shall 2618
review and make recommendations to the director of health on all 2619
of the following: 2620

(1) Developing and adopting proposed rules under Chapters 2621
3701 and 3717 of the Administrative Code; 2622

(2) Prescribing proposed fees for services provided by the 2623
office of vital statistics and the bureau of environmental health; 2624

(3) Issues to improve public health and increase awareness of 2625
public health issues at the state level, local level, or both; 2626

(4) Any other public health issues that the director requests 2627
the board to consider. 2628

(B) In making recommendations to the director under division 2629
(A)(1) of this section, all of the following apply: 2630

(1) Prior to filing a proposed rule with the joint committee 2631
on agency rule review, the department of health shall provide each 2632
board member with a copy of the proposed rule, copies of public 2633
comments received by the department during the public comment 2634
period, and written evidence of stakeholder involvement. 2635

(2) Prior to board meetings, copies of proposed rules shall 2636
be provided to members. On request of a member, the department 2637
shall ensure that appropriate department employees attend board 2638
meetings to answer questions concerning proposed rules. 2639

(3)(a) Not later than sixty days after receiving a copy of a 2640
proposed rule, the board shall recommend approval or disapproval 2641
of the rule and submit its recommendation by board action to the 2642
director. In making its recommendation, the board may consider 2643
public comments provided to the department or the board. 2644

(b) If the board fails to make a recommendation within sixty 2645
days of receiving a copy of the proposed rule, the director may 2646
file the proposed rule. 2647

(4) Except as provided in division (B)(3)(b) of this section, 2648
the director shall consider the board's recommendation before 2649
filing a proposed rule. On request of the board, the director 2650
shall meet with the board to discuss the board's recommendation. 2651

(5) If the director disagrees with the board's 2652
recommendation, the director shall inform the board in writing of 2653
the director's decision and the reason for the decision prior to 2654
the next quarterly meeting. The director or the director's 2655
designee may meet with the board at the next quarterly meeting to 2656
answer questions regarding why the director disagreed with the 2657
board's recommendation. 2658

(C) To the extent the board believes that a proposed rule 2659
does not comply with requirements established by the joint 2660
committee on agency rule review or the common sense initiative 2661
office, nothing in this section prohibits the board, in carrying 2662
out its duties under division (A)(1) of this section, from 2663
contacting the joint committee on agency rule review or the common 2664
sense initiative office. 2665

(D) In making recommendations under division (A)(2) of this 2666
section for prescribing proposed fees for services provided by the 2667
bureau of environmental health, the board and the department shall 2668
develop a cost methodology subject to approval by the director. 2669

(E) This section does not apply to the following: 2670

(1) A proposed rule that is to be refiled with the joint 2671
committee on agency rule review solely because of technical or 2672
other nonsubstantive revisions; 2673

(2) The emergency adoption, amendment, or rescission of a 2674
rule under division ~~(F)~~(G) of section 119.03 of the Revised Code. 2675

Sec. 3737.88. (A)(1) The fire marshal shall have 2676
responsibility for implementation of the underground storage tank 2677

program and corrective action program for releases of petroleum 2678
from underground storage tanks established by the "Resource 2679
Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 2680
6901, as amended. To implement the programs, the fire marshal may 2681
adopt, amend, and rescind such rules, conduct such inspections, 2682
require annual registration of underground storage tanks, issue 2683
such citations and orders to enforce those rules, enter into 2684
environmental covenants in accordance with sections 5301.80 to 2685
5301.92 of the Revised Code, and perform such other duties, as are 2686
consistent with those programs. The fire marshal, by rule, may 2687
delegate the authority to conduct inspections of underground 2688
storage tanks to certified fire safety inspectors. 2689

(2) In the place of any rules regarding release containment 2690
and release detection for underground storage tanks adopted under 2691
division (A)(1) of this section, the fire marshal, by rule, shall 2692
designate areas as being sensitive for the protection of human 2693
health and the environment and adopt alternative rules regarding 2694
release containment and release detection methods for new and 2695
upgraded underground storage tank systems located in those areas. 2696
In designating such areas, the fire marshal shall take into 2697
consideration such factors as soil conditions, hydrogeology, water 2698
use, and the location of public and private water supplies. Not 2699
later than July 11, 1990, the fire marshal shall file the rules 2700
required under this division with the secretary of state, director 2701
of the legislative service commission, and joint committee on 2702
agency rule review in accordance with divisions (B) and ~~(H)~~(C) of 2703
section 119.03 of the Revised Code. 2704

(3) Notwithstanding sections 3737.87 to 3737.89 of the 2705
Revised Code, a person who is not a responsible person, as 2706
determined by the fire marshal pursuant to this chapter, may 2707
conduct a voluntary action in accordance with Chapter 3746. of the 2708
Revised Code and rules adopted under it for either of the 2709

following:	2710
(a) A class C release;	2711
(b) A release, other than a class C release, that is subject to the rules adopted by the fire marshal under division (B) of section 3737.882 of the Revised Code pertaining to a corrective action, provided that both of the following apply:	2712 2713 2714 2715
(i) The voluntary action also addresses hazardous substances or petroleum that is not subject to the rules adopted under division (B) of section 3737.882 of the Revised Code pertaining to a corrective action.	2716 2717 2718 2719
(ii) The fire marshal has not issued an administrative order concerning the release or referred the release to the attorney general for enforcement.	2720 2721 2722
The director of environmental protection, pursuant to section 3746.12 of the Revised Code, may issue a covenant not to sue to any person who properly completes a voluntary action with respect to any such release in accordance with Chapter 3746. of the Revised Code and rules adopted under it.	2723 2724 2725 2726 2727
(B) Before adopting any rule under this section or section 3737.881 or 3737.882 of the Revised Code, the fire marshal shall file written notice of the proposed rule with the chairperson of the state fire council, and, within sixty days after notice is filed, the council may file responses to or comments on and may recommend alternative or supplementary rules to the fire marshal. At the end of the sixty-day period or upon the filing of responses, comments, or recommendations by the council, the fire marshal may adopt the rule filed with the council or any alternative or supplementary rule recommended by the council.	2728 2729 2730 2731 2732 2733 2734 2735 2736 2737
(C) The state fire council may recommend courses of action to be taken by the fire marshal in carrying out the fire marshal's duties under this section. The council shall file its	2738 2739 2740

recommendations in the office of the fire marshal, and, within 2741
sixty days after the recommendations are filed, the fire marshal 2742
shall file with the chairperson of the council comments on, and 2743
proposed action in response to, the recommendations. 2744

(D) For the purpose of sections 3737.87 to 3737.89 of the 2745
Revised Code, the fire marshal shall adopt, and may amend and 2746
rescind, rules identifying or listing hazardous substances. The 2747
rules shall be consistent with and equivalent in scope, coverage, 2748
and content to regulations identifying or listing hazardous 2749
substances adopted under the "Comprehensive Environmental 2750
Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 2751
42 U.S.C.A. 9602, as amended, except that the fire marshal shall 2752
not identify or list as a hazardous substance any hazardous waste 2753
identified or listed in rules adopted under division (A) of 2754
section 3734.12 of the Revised Code. 2755

(E) Except as provided in division (A)(3) of this section, 2756
the fire marshal shall have exclusive jurisdiction to regulate the 2757
storage, treatment, and disposal of petroleum contaminated soil 2758
generated from corrective actions undertaken in response to 2759
releases of petroleum from underground storage tank systems. The 2760
fire marshal may adopt, amend, or rescind such rules as the fire 2761
marshal considers to be necessary or appropriate to regulate the 2762
storage, treatment, or disposal of petroleum contaminated soil so 2763
generated. 2764

(F) The fire marshal shall adopt, amend, and rescind rules 2765
under sections 3737.88 to 3737.882 of the Revised Code in 2766
accordance with Chapter 119. of the Revised Code. 2767

Sec. 3746.04. Within one year after September 28, 1994, the 2768
director of environmental protection, in accordance with Chapter 2769
119. of the Revised Code, shall adopt, and subsequently may amend, 2770
suspend, or rescind, rules that do both of the following: 2771

(A) Revise the rules adopted under Chapters 3704., 3714., 2772
3734., 6109., and 6111. of the Revised Code to incorporate the 2773
provisions necessary to conform those rules to the requirements of 2774
this chapter. The amended rules adopted under this division also 2775
shall establish response times for all submittals to the 2776
environmental protection agency required under this chapter or 2777
rules adopted under it. 2778

(B) Establish requirements and procedures that are reasonably 2779
necessary for the implementation and administration of this 2780
chapter, including, without limitation, all of the following: 2781

(1) Appropriate generic numerical clean-up standards for the 2782
treatment or removal of soils, sediments, and water media for 2783
hazardous substances and petroleum. The rules shall establish 2784
separate generic numerical clean-up standards based upon the 2785
intended use of properties after the completion of voluntary 2786
actions, including industrial, commercial, and residential uses 2787
and such other categories of land use as the director considers to 2788
be appropriate. The generic numerical clean-up standards 2789
established for each category of land use shall be the 2790
concentration of each contaminant that may be present on a 2791
property that shall ensure protection of public health and safety 2792
and the environment for the reasonable exposure for that category 2793
of land use. When developing the standards, the director shall 2794
consider such factors as all of the following: 2795

(a) Scientific information, including, without limitation, 2796
toxicological information and realistic assumptions regarding 2797
human and environmental exposure to hazardous substances or 2798
petroleum; 2799

(b) Climatic factors; 2800

(c) Human activity patterns; 2801

(d) Current statistical techniques; 2802

(e) For petroleum at industrial property, alternatives to the use of total petroleum hydrocarbons.

The generic numerical clean-up standards established in the rules adopted under division (B)(1) of this section shall be consistent with and equivalent in scope, content, and coverage to any applicable standard established by federal environmental laws and regulations adopted under them, including, without limitation, the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.

In order for the rules adopted under division (B)(1) of this section to require that any such federal environmental standard apply to a property, the property shall meet the requirements of the particular federal statute or regulation involved in the manner specified by the statute or regulation.

The generic numerical clean-up standards for petroleum at commercial or residential property shall be the standards established in rules adopted under division (B) of section 3737.882 of the Revised Code.

(2)(a) Procedures for performing property-specific risk assessments that would be performed at a property to demonstrate that the remedy evaluated in a risk assessment results in protection of public health and safety and the environment instead of complying with the generic numerical clean-up standards established in the rules adopted under division (B)(1) of this section. The risk assessment procedures shall describe a

methodology to establish, on a property-specific basis, allowable 2835
levels of contamination to remain at a property to ensure 2836
protection of public health and safety and the environment on the 2837
property and off the property when the contamination is emanating 2838
off the property, taking into account all of the following: 2839

(i) The implementation of treatment, storage, or disposal, or 2840
a combination thereof, of hazardous substances or petroleum; 2841

(ii) The existence of institutional controls or activity and 2842
use limitations that eliminate or mitigate exposure to hazardous 2843
substances or petroleum through the restriction of access to 2844
hazardous substances or petroleum; 2845

(iii) The existence of engineering controls that eliminate or 2846
mitigate exposure to hazardous substances or petroleum through 2847
containment of, control of, or restrictions of access to hazardous 2848
substances or petroleum, including, without limitation, fences, 2849
cap systems, cover systems, and landscaping. 2850

(b) The risk assessment procedures and levels of acceptable 2851
risk set forth in the rules adopted under division (B)(2) of this 2852
section shall be based upon all of the following: 2853

(i) Scientific information, including, without limitation, 2854
toxicological information and actual or proposed human and 2855
environmental exposure; 2856

(ii) Locational and climatic factors; 2857

(iii) Surrounding land use and human activities; 2858

(iv) Differing levels of remediation that may be required 2859
when an existing land use is continued compared to when a 2860
different land use follows the remediation. 2861

(c) Any standards established pursuant to rules adopted under 2862
division (B)(2) of this section shall be no more stringent than 2863
standards established under the environmental statutes of this 2864

state and rules adopted under them for the same contaminant in the 2865
same environmental medium that are in effect at the time the risk 2866
assessment is conducted. 2867

(3) Minimum standards for phase I property assessments. The 2868
standards shall specify the information needed to demonstrate that 2869
there is no reason to believe that contamination exists on a 2870
property. The rules adopted under division (B)(3) of this section, 2871
at a minimum, shall require that a phase I property assessment 2872
include all of the following: 2873

(a) A review and analysis of deeds, mortgages, easements of 2874
record, and similar documents relating to the chain of title to 2875
the property that are publicly available or that are known to and 2876
reasonably available to the owner or operator; 2877

(b) A review and analysis of any previous environmental 2878
assessments, property assessments, environmental studies, or 2879
geologic studies of the property and any land within two thousand 2880
feet of the boundaries of the property that are publicly available 2881
or that are known to and reasonably available to the owner or 2882
operator; 2883

(c) A review of current and past environmental compliance 2884
histories of persons who owned or operated the property; 2885

(d) A review of aerial photographs of the property that 2886
indicate prior uses of the property; 2887

(e) Interviews with managers of activities conducted at the 2888
property who have knowledge of environmental conditions at the 2889
property; 2890

(f) Conducting an inspection of the property consisting of a 2891
walkover; 2892

(g) Identifying the current and past uses of the property, 2893
adjoining tracts of land, and the area surrounding the property, 2894

including, without limitation, interviews with persons who reside 2895
or have resided, or who are or were employed, within the area 2896
surrounding the property regarding the current and past uses of 2897
the property and adjacent tracts of land. 2898

The rules adopted under division (B)(3) of this section shall 2899
establish criteria to determine when a phase II property 2900
assessment shall be conducted when a phase I property assessment 2901
reveals facts that establish a reason to believe that hazardous 2902
substances or petroleum have been treated, stored, managed, or 2903
disposed of on the property if the person undertaking the phase I 2904
property assessment wishes to obtain a covenant not to sue under 2905
section 3746.12 of the Revised Code. 2906

(4) Minimum standards for phase II property assessments. The 2907
standards shall specify the information needed to demonstrate that 2908
any contamination present at the property does not exceed 2909
applicable standards or that the remedial activities conducted at 2910
the property have achieved compliance with applicable standards. 2911
The rules adopted under division (B)(4) of this section, at a 2912
minimum, shall require that a phase II property assessment include 2913
all of the following: 2914

(a) A review and analysis of all documentation prepared in 2915
connection with a phase I property assessment conducted within the 2916
one hundred eighty days before the phase II property assessment 2917
begins. The rules adopted under division (B)(4)(a) of this section 2918
shall require that if a period of more than one hundred eighty 2919
days has passed between the time that the phase I assessment of 2920
the property was completed and the phase II assessment begins, the 2921
phase II assessment shall include a reasonable inquiry into the 2922
change in the environmental condition of the property during the 2923
intervening period. 2924

(b) Quality assurance objectives for measurements taken in 2925
connection with a phase II assessment; 2926

(c) Sampling procedures to ensure the representative sampling of potentially contaminated environmental media; 2927
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(d) Quality assurance and quality control requirements for samples collected in connection with phase II assessments; 2929
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(e) Analytical and data assessment procedures; 2931

(f) Data objectives to ensure that samples collected in connection with phase II assessments are biased toward areas where information indicates that contamination by hazardous substances or petroleum is likely to exist. 2932
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(5) Standards governing the conduct of certified professionals, criteria and procedures for the certification of professionals to issue no further action letters under section 3746.11 of the Revised Code, and criteria for the suspension and revocation of those certifications. The director shall take an action regarding a certification as a final action. The issuance, denial, renewal, suspension, and revocation of those certifications are subject to Chapter 3745. of the Revised Code, except that, in lieu of publishing an action regarding a certification in a newspaper of general circulation as required in section 3745.07 of the Revised Code, such an action shall be published on the environmental protection agency's web site and in the agency's weekly review not later than fifteen days after the date of the issuance, denial, renewal, suspension, or revocation of the certification and not later than thirty days before a hearing or public meeting concerning the action. 2936
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The rules adopted under division (B)(5) of this section shall do all of the following: 2952
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(a) Provide for the certification of environmental professionals to issue no further action letters pertaining to investigations and remedies in accordance with the criteria and procedures set forth in the rules. The rules adopted under 2954
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division (B)(5)(a) of this section shall do at least all of the 2958
following: 2959

(i) Authorize the director to consider such factors as an 2960
environmental professional's previous performance record regarding 2961
such investigations and remedies and the environmental 2962
professional's environmental compliance history when determining 2963
whether to certify the environmental professional; 2964

(ii) Ensure that an application for certification is reviewed 2965
in a timely manner; 2966

(iii) Require the director to certify any environmental 2967
professional who the director determines complies with those 2968
criteria; 2969

(iv) Require the director to deny certification for any 2970
environmental professional who does not comply with those 2971
criteria. 2972

(b) Establish an annual fee to be paid by environmental 2973
professionals certified pursuant to the rules adopted under 2974
division (B)(5)(a) of this section. The fee shall be established 2975
at an amount calculated to defray the costs to the agency for the 2976
required reviews of the qualifications of environmental 2977
professionals for certification and for the issuance of the 2978
certifications. 2979

(c) Develop a schedule for and establish requirements 2980
governing the review by the director of the credentials of 2981
environmental professionals who were deemed to be certified 2982
professionals under division (D) of section 3746.07 of the Revised 2983
Code in order to determine if they comply with the criteria 2984
established in rules adopted under division (B)(5) of this 2985
section. The rules adopted under division (B)(5)(c) of this 2986
section shall do at least all of the following: 2987

(i) Ensure that the review is conducted in a timely fashion; 2988

(ii) Require the director to certify any such environmental professional who the director determines complies with those criteria;	2989 2990 2991
(iii) Require any such environmental professional initially to pay the fee established in the rules adopted under division (B)(5)(b) of this section at the time that the environmental professional is so certified by the director;	2992 2993 2994 2995
(iv) Establish a time period within which any such environmental professional who does not comply with those criteria may obtain the credentials that are necessary for certification;	2996 2997 2998
(v) Require the director to deny certification for any such environmental professional who does not comply with those criteria and who fails to obtain the necessary credentials within the established time period.	2999 3000 3001 3002
(d) Require that any information submitted to the director for the purposes of the rules adopted under division (B)(5)(a) or (c) of this section comply with division (A) of section 3746.20 of the Revised Code;	3003 3004 3005 3006
(e) Authorize the director to suspend or revoke the certification of an environmental professional if the director finds that the environmental professional's performance has resulted in the issuance of no further action letters under section 3746.11 of the Revised Code that are not consistent with applicable standards or finds that the certified environmental professional has not substantially complied with section 3746.31 of the Revised Code;	3007 3008 3009 3010 3011 3012 3013 3014
(f) Authorize the director to suspend for a period of not more than five years or to permanently revoke a certified environmental professional's certification for any violation of or failure to comply with an ethical standard established in rules adopted under division (B)(5) of this section;	3015 3016 3017 3018 3019

(g) Require the director to revoke the certification of an environmental professional if the director finds that the environmental professional falsified any information on the environmental professional's application for certification regarding the environmental professional's credentials or qualifications or any other information generated for the purposes of or use under this chapter or rules adopted under it;

(h) Require the director permanently to revoke the certification of an environmental professional who has violated or is violating division (A) of section 3746.18 of the Revised Code;

(i) Preclude the director from revoking the certification of an environmental professional who only conducts investigations and remedies at property contaminated solely with petroleum unless the director first consults with the director of commerce.

(6) Criteria and procedures for the certification of laboratories to perform analyses under this chapter and rules adopted under it. The issuance, denial, suspension, and revocation of those certifications are subject to Chapter 3745. of the Revised Code, and the director of environmental protection shall take any such action regarding a certification as a final action.

The rules adopted under division (B)(6) of this section shall do all of the following:

(a) Provide for the certification to perform analyses of laboratories in accordance with the criteria and procedures established in the rules adopted under division (B)(6)(a) of this section and establish an annual fee to be paid by those laboratories. The fee shall be established at an amount calculated to defray the costs to the agency for the review of the qualifications of those laboratories for certification and for the issuance of the certifications. The rules adopted under division (B)(6)(a) of this section may provide for the certification of

those laboratories to perform only particular types or categories 3051
of analyses, specific test parameters or group of test parameters, 3052
or a specific matrix or matrices under this chapter. 3053

(b) Develop a schedule for and establish requirements 3054
governing the review by the director of the operations of 3055
laboratories that were deemed to be certified laboratories under 3056
division (E) of section 3746.07 of the Revised Code in order to 3057
determine if they comply with the criteria established in rules 3058
adopted under division (B)(6) of this section. The rules adopted 3059
under division (B)(6)(b) of this section shall do at least all of 3060
the following: 3061

(i) Ensure that the review is conducted in a timely fashion; 3062

(ii) Require the director to certify any such laboratory that 3063
the director determines complies with those criteria; 3064

(iii) Require any such laboratory initially to pay the fee 3065
established in the rules adopted under division (B)(6)(a) of this 3066
section at the time that the laboratory is so certified by the 3067
director; 3068

(iv) Establish a time period within which any such laboratory 3069
that does not comply with those criteria may make changes in its 3070
operations necessary for the performance of analyses under this 3071
chapter and rules adopted under it in order to be certified by the 3072
director; 3073

(v) Require the director to deny certification for any such 3074
laboratory that does not comply with those criteria and that fails 3075
to make the necessary changes in its operations within the 3076
established time period. 3077

(c) Require that any information submitted to the director 3078
for the purposes of the rules adopted under division (B)(6)(a) or 3079
(b) of this section comply with division (A) of section 3746.20 of 3080
the Revised Code; 3081

(d) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory's performance has resulted in the issuance of no further action letters under section 3746.11 of the Revised Code that are not consistent with applicable standards;

(e) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory falsified any information on its application for certification regarding its credentials or qualifications;

(f) Require the director permanently to revoke the certification of a laboratory that has violated or is violating division (A) of section 3746.18 of the Revised Code.

(7) Information to be included in a no further action letter prepared under section 3746.11 of the Revised Code, including, without limitation, all of the following:

(a) A summary of the information required to be submitted to the certified environmental professional preparing the no further action letter under division (C) of section 3746.10 of the Revised Code;

(b) Notification that a risk assessment was performed in accordance with rules adopted under division (B)(2) of this section if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B)(1) of this section;

(c) The contaminants addressed at the property, if any, their source, if known, and their levels prior to remediation;

(d) The identity of any other person who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code and the nature and scope of the work performed by that person;

(e) A list of the data, information, records, and documents	3112
relied upon by the certified environmental professional in	3113
preparing the no further action letter.	3114
(8) Methods for determining fees to be paid for the following	3115
services provided by the agency under this chapter and rules	3116
adopted under it:	3117
(a) Site- or property-specific technical assistance in	3118
developing or implementing plans in connection with a voluntary	3119
action;	3120
(b) Reviewing applications for and issuing consolidated	3121
standards permits under section 3746.15 of the Revised Code and	3122
monitoring compliance with those permits;	3123
(c) Negotiating, preparing, and entering into agreements	3124
necessary for the implementation and administration of this	3125
chapter and rules adopted under it;	3126
(d) Reviewing no further action letters, issuing covenants	3127
not to sue, and monitoring compliance with any terms and	3128
conditions of those covenants and with operation and maintenance	3129
agreements entered into pursuant to those covenants, including,	3130
without limitation, conducting audits of properties where	3131
voluntary actions are being or were conducted under this chapter	3132
and rules adopted under it.	3133
The fees established pursuant to the rules adopted under	3134
division (B)(8) of this section shall be at a level sufficient to	3135
defray the direct and indirect costs incurred by the agency for	3136
the administration and enforcement of this chapter and rules	3137
adopted under it other than the provisions regarding the	3138
certification of professionals and laboratories.	3139
(9) Criteria for selecting the no further action letters	3140
issued under section 3746.11 of the Revised Code that will be	3141
audited under section 3746.17 of the Revised Code, and the scope	3142

and procedures for conducting those audits. The rules adopted 3143
under division (B)(9) of this section, at a minimum, shall require 3144
the director to establish priorities for auditing no further 3145
action letters to which any of the following applies: 3146

(a) The letter was prepared by an environmental professional 3147
who was deemed to be a certified professional under division (D) 3148
of section 3746.07 of the Revised Code, but who does not comply 3149
with the criteria established in rules adopted under division 3150
(B)(5) of this section as determined pursuant to rules adopted 3151
under division (B)(5)(d) of this section; 3152

(b) The letter was submitted fraudulently; 3153

(c) The letter was prepared by a certified environmental 3154
professional whose certification subsequently was revoked in 3155
accordance with rules adopted under division (B)(5) of this 3156
section, or analyses were performed for the purposes of the no 3157
further action letter by a certified laboratory whose 3158
certification subsequently was revoked in accordance with rules 3159
adopted under division (B)(6) of this section; 3160

(d) A covenant not to sue that was issued pursuant to the 3161
letter was revoked under this chapter; 3162

(e) The letter was for a voluntary action that was conducted 3163
pursuant to a risk assessment in accordance with rules adopted 3164
under division (B)(2) of this section; 3165

(f) The letter was for a voluntary action that included as 3166
remedial activities engineering controls or institutional controls 3167
or activity and use limitations authorized under section 3746.05 3168
of the Revised Code. 3169

The rules adopted under division (B)(9) of this section shall 3170
provide for random audits of no further action letters to which 3171
the rules adopted under divisions (B)(9)(a) to (f) of this section 3172
do not apply. 3173

(10) A classification system to characterize ground water 3174
according to its capability to be used for human use and its 3175
impact on the environment and a methodology that shall be used to 3176
determine when ground water that has become contaminated from 3177
sources on a property for which a covenant not to sue is requested 3178
under section 3746.11 of the Revised Code shall be remediated to 3179
the standards established in the rules adopted under division 3180
(B)(1) or (2) of this section. 3181

(a) In adopting rules under division (B)(10) of this section 3182
to characterize ground water according to its capability for human 3183
use, the director shall consider all of the following: 3184

(i) The presence of legally enforceable, reliable 3185
restrictions on the use of ground water, including, without 3186
limitation, local rules or ordinances; 3187

(ii) The presence of regional commingled contamination from 3188
multiple sources that diminishes the quality of ground water; 3189

(iii) The natural quality of ground water; 3190

(iv) Regional availability of ground water and reasonable 3191
alternative sources of drinking water; 3192

(v) The productivity of the aquifer; 3193

(vi) The presence of restrictions on the use of ground water 3194
implemented under this chapter and rules adopted under it; 3195

(vii) The existing use of ground water. 3196

(b) In adopting rules under division (B)(10) of this section 3197
to characterize ground water according to its impacts on the 3198
environment, the director shall consider both of the following: 3199

(i) The risks posed to humans, fauna, surface water, 3200
sediments, soil, air, and other resources by the continuing 3201
presence of contaminated ground water; 3202

(ii) The availability and feasibility of technology to remedy 3203

ground water contamination. 3204

(11) Governing the application for and issuance of variances 3205
under section 3746.09 of the Revised Code; 3206

(12)(a) In the case of voluntary actions involving 3207
contaminated ground water, specifying the circumstances under 3208
which the generic numerical clean-up standards established in 3209
rules adopted under division (B)(1) of this section and standards 3210
established through a risk assessment conducted pursuant to rules 3211
adopted under division (B)(2) of this section shall be 3212
inapplicable to the remediation of contaminated ground water and 3213
under which the standards for remediating contaminated ground 3214
water shall be established on a case-by-case basis prior to the 3215
commencement of the voluntary action pursuant to rules adopted 3216
under division (B)(12)(b) of this section; 3217

(b) Criteria and procedures for the case-by-case 3218
establishment of standards for the remediation of contaminated 3219
ground water under circumstances in which the use of the generic 3220
numerical clean-up standards and standards established through a 3221
risk assessment are precluded by the rules adopted under division 3222
(B)(12)(a) of this section. The rules governing the procedures for 3223
the case-by-case development of standards for the remediation of 3224
contaminated ground water shall establish application, public 3225
participation, adjudication, and appeals requirements and 3226
procedures that are equivalent to the requirements and procedures 3227
established in section 3746.09 of the Revised Code and rules 3228
adopted under division (B)(11) of this section, except that the 3229
procedural rules shall not require an applicant to make the 3230
demonstrations set forth in divisions (A)(1) to (3) of section 3231
3746.09 of the Revised Code. 3232

(13) A definition of the evidence that constitutes sufficient 3233
evidence for the purpose of division (A)(5) of section 3746.02 of 3234
the Revised Code. 3235

At least thirty days before filing the proposed rules 3236
required to be adopted under this section with the secretary of 3237
state, director of the legislative service commission, and joint 3238
committee on agency rule review in accordance with divisions (B) 3239
and ~~(H)~~(C) of section 119.03 of the Revised Code, the director of 3240
environmental protection shall hold at least one public meeting on 3241
the proposed rules in each of the five districts into which the 3242
agency has divided the state for administrative purposes. 3243

Sec. 4117.02. (A) There is hereby created the state 3244
employment relations board, consisting of three members to be 3245
appointed by the governor with the advice and consent of the 3246
senate. Members shall be knowledgeable about labor relations or 3247
personnel practices. No more than two of the three members shall 3248
belong to the same political party. A member of the state 3249
employment relations board during the member's period of service 3250
shall hold no other public office or public or private employment 3251
and shall allow no other responsibilities to interfere or conflict 3252
with the member's duties as a full-time state employment relations 3253
board member. Of the initial appointments made to the state 3254
employment relations board, one shall be for a term ending October 3255
6, 1984, one shall be for a term ending October 6, 1985, and one 3256
shall be for a term ending October 6, 1986. Thereafter, terms of 3257
office shall be for six years, each term ending on the same day of 3258
the same month of the year as did the term that it succeeds. Each 3259
member shall hold office from the date of the member's appointment 3260
until the end of the term for which the member is appointed. Any 3261
member appointed to fill a vacancy occurring prior to the 3262
expiration of the term for which the member's predecessor was 3263
appointed shall hold office for the remainder of the term. Any 3264
member shall continue in office subsequent to the expiration of 3265
the member's term until the member's successor takes office or 3266
until a period of sixty days has elapsed, whichever occurs first. 3267

The governor may remove any member of the state employment relations board, upon notice and public hearing, for neglect of duty or malfeasance in office, but for no other cause.

(B)(1) The governor shall designate one member of the state employment relations board to serve as chairperson of the state employment relations board. The chairperson is the head of the state employment relations board and its chief executive officer.

(2) The chairperson shall exercise all administrative powers and duties conferred upon the state employment relations board under this chapter and shall do all of the following:

(a) Employ, promote, supervise, and remove all employees of the state employment relations board, and establish, change, or abolish positions and assign or reassign the duties of those employees as the chairperson determines necessary to achieve the most efficient performance of the duties of the state employment relations board under this chapter;

(b) Determine the utilization by the state personnel board of review of employees of the state employment relations board as necessary for the state personnel board of review to exercise the powers and perform the duties of the state personnel board of review.

(c) Maintain the office of the state employment relations board in Columbus and manage the office's daily operations, including securing offices, facilities, equipment, and supplies necessary to house the state employment relations board, employees of the state employment relations board, the state personnel board of review, and files and records under the control of the state employment relations board and under the control of the state personnel board of review;

(d) Prepare and submit to the office of budget and management a budget for each biennium according to section 107.03 of the

Revised Code, and include in the budget the costs of the state 3299
employment relations board and its staff and the costs of the 3300
state employment relations board in discharging any duty imposed 3301
by law upon the state employment relations board, the chairperson, 3302
or any of the employees or agents of the state employment 3303
relations board, and the costs of the state personnel board of 3304
review in discharging any duty imposed by law on the state 3305
personnel board of review or an agent of the state personnel board 3306
of review. 3307

(C) The vacancy on the state employment relations board does 3308
not impair the right of the remaining members to exercise all the 3309
powers of the state employment relations board, and two members of 3310
the state employment relations board, at all times, constitute a 3311
quorum. The state employment relations board shall have an 3312
official seal of which courts shall take judicial notice. 3313

(D) The state employment relations board shall make an annual 3314
report in writing to the governor and to the general assembly, 3315
stating in detail the work it has done. 3316

(E) Compensation of the chairperson and members shall be in 3317
accordance with division (J) of section 124.15 of the Revised 3318
Code. The chairperson and the members are eligible for 3319
reappointment. In addition to such compensation, all members shall 3320
be reimbursed for their necessary expenses incurred in the 3321
performance of their work as members. 3322

(F)(1) The chairperson, after consulting with the other state 3323
employment relations board members and receiving the consent of at 3324
least one other board member, shall appoint an executive director. 3325
The chairperson also shall appoint attorneys and shall appoint an 3326
assistant executive director who shall be an attorney admitted to 3327
practice law in this state and who shall serve as a liaison to the 3328
attorney general on legal matters before the state employment 3329
relations board. 3330

(2) The state employment relations board shall appoint 3331
members of fact-finding panels and shall prescribe their job 3332
duties. 3333

(G)(1) The executive director shall serve at the pleasure of 3334
the chairperson. The executive director, under the direction of 3335
the chairperson, shall do all of the following: 3336

(a) Act as chief administrative officer for the state 3337
employment relations board; 3338

(b) Ensure that all employees of the state employment 3339
relations board comply with the rules of the state employment 3340
relations board; 3341

(c) Do all things necessary for the efficient and effective 3342
implementation of the duties of the state employment relations 3343
board. 3344

(2) The duties of the executive director described in 3345
division (G)(1) of this section do not relieve the chairperson 3346
from final responsibility for the proper performance of the duties 3347
described in that division. 3348

(H) The attorney general shall be the legal adviser of the 3349
state employment relations board and shall appear for and 3350
represent the state employment relations board and its agents in 3351
all legal proceedings. The state employment relations board may 3352
utilize regional, local, or other agencies, and utilize voluntary 3353
and uncompensated services as needed. The state employment 3354
relations board may contract with the federal mediation and 3355
conciliation service for the assistance of mediators, arbitrators, 3356
and other personnel the service makes available. The chairperson 3357
shall appoint all employees on the basis of training, practical 3358
experience, education, and character, notwithstanding the 3359
requirements established by section 119.09 of the Revised Code. 3360
The chairperson shall give special regard to the practical 3361

training and experience that employees have for the particular 3362
position involved. The executive director, assistant executive 3363
director, administrative law judges, employees holding a fiduciary 3364
or administrative relation to the state employment relations board 3365
as described in division (A)(9) of section 124.11 of the Revised 3366
Code, and the personal secretaries and assistants of the state 3367
employment relations board members are in the unclassified 3368
service. All other full-time employees of the state employment 3369
relations board are in the classified service. All employees of 3370
the state employment relations board shall be paid in accordance 3371
with Chapter 124. of the Revised Code. 3372

(I) The chairperson shall select and assign administrative 3373
law judges and other agents whose functions are to conduct 3374
hearings with due regard to their impartiality, judicial 3375
temperament, and knowledge. If in any proceeding under this 3376
chapter, any party prior to five days before the hearing thereto 3377
files with the state employment relations board a sworn statement 3378
charging that the administrative law judge or other agent 3379
designated to conduct the hearing is biased or partial in the 3380
proceeding, the state employment relations board may disqualify 3381
the person and designate another administrative law judge or agent 3382
to conduct the proceeding. At least ten days before any hearing, 3383
the state employment relations board shall notify all parties to a 3384
proceeding of the name of the administrative law judge or agent 3385
designated to conduct the hearing. 3386

(J) The principal office of the state employment relations 3387
board is in Columbus, but it may meet and exercise any or all of 3388
its powers at any other place within the state. The state 3389
employment relations board may, by one or more of its employees, 3390
or any agents or agencies it designates, conduct in any part of 3391
this state any proceeding, hearing, investigation, inquiry, or 3392
election necessary to the performance of its functions; provided, 3393

that no person so designated may later sit in determination of an appeal of the decision of that cause or matter.

(K) In addition to the powers and functions provided in other sections of this chapter, the state employment relations board shall do all of the following:

(1) Create a bureau of mediation within the state employment relations board, to perform the functions provided in section 4117.14 of the Revised Code. This bureau shall also establish, after consulting representatives of employee organizations and public employers, panels of qualified persons to be available to serve as members of fact-finding panels and arbitrators.

(2) Conduct studies of problems involved in representation and negotiation and make recommendations for legislation;

(3) Hold hearings pursuant to this chapter and, for the purpose of the hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate these powers to any members of the state employment relations board or any administrative law judge employed by the state employment relations board for the performance of its functions;

(4) Train representatives of employee organizations and public employers in the rules and techniques of collective bargaining procedures;

(5) Make studies and analyses of, and act as a clearinghouse of information relating to, conditions of employment of public employees throughout the state and request assistance, services, and data from any public employee organization, public employer, or governmental unit. Public employee organizations, public employers, and governmental units shall provide such assistance, services, and data as will enable the state employment relations

board to carry out its functions and powers. 3425

(6) Make available to employee organizations, public 3426
employers, mediators, fact-finding panels, arbitrators, and joint 3427
study committees statistical data relating to wages, benefits, and 3428
employment practices in public and private employment applicable 3429
to various localities and occupations to assist them to resolve 3430
issues in negotiations; 3431

(7) Notwithstanding section 119.13 of the Revised Code, 3432
establish standards of persons who practice before it; 3433

(8) Adopt, amend, and rescind rules and procedures and 3434
exercise other powers appropriate to carry out this chapter. 3435
Before the adoption, amendment, or rescission of rules and 3436
procedures under this section, the state employment relations 3437
board shall do all of the following: 3438

(a) Maintain a list of interested public employers and 3439
employee organizations and mail notice to such groups of any 3440
proposed rule or procedure, amendment thereto, or rescission 3441
thereof at least thirty days before any public hearing thereon; 3442

(b) Mail a copy of each proposed rule or procedure, amendment 3443
thereto, or rescission thereof to any person who requests a copy 3444
within five days after receipt of the request therefor; 3445

(c) Consult with appropriate statewide organizations 3446
representing public employers or employees who would be affected 3447
by the proposed rule or procedure. 3448

Although the state employment relations board is expected to 3449
discharge these duties diligently, failure to mail any notice or 3450
copy, or to so consult with any person, is not jurisdictional and 3451
shall not be construed to invalidate any proceeding or action of 3452
the state employment relations board. 3453

(L) In case of neglect or refusal to obey a subpoena issued 3454

to any person, the court of common pleas of the county in which 3455
the investigation or the public hearing occurs, upon application 3456
by the state employment relations board, may issue an order 3457
requiring the person to appear before the state employment 3458
relations board and give testimony about the matter under 3459
investigation. The court may punish a failure to obey the order as 3460
contempt. 3461

(M) Any subpoena, notice of hearing, or other process or 3462
notice of the state employment relations board issued under this 3463
section may be served personally, by certified mail, or by leaving 3464
a copy at the principal office or personal residence of the 3465
respondent required to be served. A return, made and verified by 3466
the individual making the service and setting forth the manner of 3467
service, is proof of service, and a return post office receipt, 3468
when certified mail is used, is proof of service. All process in 3469
any court to which application is made under this chapter may be 3470
served in the county wherein the persons required to be served 3471
reside or are found. 3472

(N) All expenses of the state employment relations board, 3473
including all necessary traveling and subsistence expenses 3474
incurred by the members or employees of the state employment 3475
relations board under its orders, shall be paid pursuant to 3476
itemized vouchers approved by the chairperson of the state 3477
employment relations board, the executive director, or both, or 3478
such other person as the chairperson designates for that purpose. 3479

(O) Whenever the state employment relations board determines 3480
that a substantial controversy exists with respect to the 3481
application or interpretation of this chapter and the matter is of 3482
public or great general interest, the state employment relations 3483
board shall certify its final order directly to the court of 3484
appeals having jurisdiction over the area in which the principal 3485
office of the public employer directly affected by the application 3486

or interpretation is located. The chairperson shall file with the clerk of the court a certified copy of the transcript of the proceedings before the state employment relations board pertaining to the final order. If upon hearing and consideration the court decides that the final order of the state employment relations board is unlawful or is not supported by substantial evidence on the record as a whole, the court shall reverse and vacate the final order or modify it and enter final judgment in accordance with the modification; otherwise, the court shall affirm the final order. The notice of the final order of the state employment relations board to the interested parties shall contain a certification by the chairperson of the state employment relations board that the final order is of public or great general interest and that a certified transcript of the record of the proceedings before the state employment relations board had been filed with the clerk of the court as an appeal to the court. For the purposes of this division, the state employment relations board has standing to bring its final order properly before the court of appeals.

(P) Except as otherwise specifically provided in this section, the state employment relations board is subject to Chapter 119. of the Revised Code, including the procedure for submission of proposed rules to the general assembly for legislative review under division ~~(H)~~(C) of section 119.03 of the Revised Code.

Sec. 4141.14. ~~(A)~~ All rules of the director of the department of job and family services adopted pursuant to this chapter shall be approved by the unemployment compensation review commission before the rules become effective. All such rules shall specify on their face their effective date and the date on which they will expire, if known. Approval by the unemployment compensation review commission shall also be required before amendments to, or

rescission of, any rules of the director adopted pursuant to this 3519
chapter become effective. If the commission disapproves a rule of 3520
the director, it shall determine and promulgate a rule that it 3521
considers appropriate after affording a hearing to the director. 3522

3523

~~(B)(1) Any rule promulgated pursuant to this section shall be 3524
effective on the tenth day after the day on which the rule in 3525
final form and in compliance with division (B)(2) of this section 3526
is filed as follows: 3527~~

~~(a) The rule shall be filed in electronic form with both the 3528
secretary of state and the director of the legislative service 3529
commission; 3530~~

~~(b) The rule shall be filed in electronic form with the joint 3531
committee on agency rule review. Division (B)(1)(b) of this 3532
section does not apply to any rule to which division (H) of 3533
section 119.03 of the Revised Code does not apply. 3534~~

~~If all filings are not completed on the same day, the rule 3535
shall be effective on the tenth day after the day on which the 3536
latest filing is completed. If the department of job and family 3537
services or the unemployment compensation review commission in 3538
adopting a rule pursuant to this chapter designates an effective 3539
date that is later than the effective date provided for by this 3540
division, the rule if filed as required by this division shall 3541
become effective on the later date designated by the department or 3542
commission. 3543~~

~~If the commission or department adopts or amends a rule that 3544
is subject to division (H) of section 119.03 of the Revised Code, 3545
the commission or department shall assign a review date to the 3546
rule that is not later than five years after its effective date. 3547
If no review date is assigned to a rule, or if a review date 3548
assigned to a rule exceeds the five year maximum, the review date 3549~~

~~for the rule is five years after its effective date. A rule with a
review date is subject to review under section 119.032 of the
Revised Code.~~

~~(2) The department and commission shall file the rule in
compliance with the following standards and procedures:~~

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

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

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

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

~~If the director of the legislative service commission or the
director's designee gives the department of job and family
services or the unemployment compensation review commission notice
pursuant to section 103.05 of the Revised Code that a rule filed
by the department or review commission is not in compliance with
the rules of the legislative service commission, the department or
review commission shall within thirty days after receipt of the
notice conform the rule to the rules of the commission as directed
in the notice.~~

~~The secretary of state and the director of the legislative
service commission shall preserve the rules filed under division
(B)(1)(a) of this section in an accessible manner. Each such rule
shall be a public record open to public inspection and may be
transmitted to any law publishing company that wishes to reproduce
it.~~

(C) As used in this section:	3580
(1) "Rule" includes an amendment or rescission of a rule.	3581
(2) "Substantive revision" has the same meaning as in	3582
division (J) of section 119.01 of the Revised Code.	3583
Sec. 5103.0325. Notwithstanding division (B) of section	3584
119.032 <u>106.03</u> of the Revised Code, the department of job and	3585
family services shall review once every two years the department's	3586
rules governing visits and contacts by a public children services	3587
agency or private child placing agency with a child in the	3588
agency's custody and placed in foster care in this state. The	3589
department shall adopt rules in accordance with Chapter 119. of	3590
the Revised Code to ensure compliance with the department's rules	3591
governing agency visits and contacts with a child in its custody.	3592
Sec. 5117.02. (A) The director of development shall adopt	3593
rules, or amendments and rescissions of rules, pursuant to section	3594
4928.52 of the Revised Code, for the administration of the Ohio	3595
energy credit program under sections 5117.01 to 5117.12 of the	3596
Revised Code.	3597
(B) As a means of efficiently administering the program, the	3598
director may extend, by as much as a total of thirty days, any	3599
date specified in such sections for the performance of a	3600
particular action by an individual or an officer.	3601
(C)(1) Except as provided in division (C)(2) of this section,	3602
the director shall adopt, in accordance with divisions (A), (B),	3603
(C), (D), (E), and (H) <u>(F)</u> of section 119.03 and section 119.04 of	3604
the Revised Code, whatever rules, or amendments or rescissions of	3605
rules are required by or are otherwise necessary to implement	3606
sections 5117.01 to 5117.12 of the Revised Code. A rule,	3607
amendment, or rescission adopted under this division is not exempt	3608
from the hearing requirements of section 119.03 of the Revised	3609

Code pursuant to division ~~(G)~~(H) of that section, or subject to 3610
section 111.15 of the Revised Code. 3611

(2) If an emergency necessitates the immediate adoption of a 3612
rule, or the immediate adoption of an amendment or rescission of a 3613
rule that is required by or otherwise necessary to implement 3614
sections 5117.01 to 5117.12 of the Revised Code, the director 3615
immediately may adopt the emergency rule, amendment, or rescission 3616
without complying with division (A), (B), (C), (D), (E), or ~~(H)~~(F) 3617
of section 119.03 of the Revised Code so long as the ~~commissioner~~ 3618
director states the reasons for the necessity in the emergency 3619
rule, amendment, or rescission. The emergency rule, amendment, or 3620
rescission is effective on the day the emergency rule, amendment, 3621
or rescission, in final form and in compliance with division 3622
(A)(2) of section 119.04 of the Revised Code, is filed in 3623
electronic form with the secretary of state, the director of the 3624
legislative service commission, and the joint committee on agency 3625
rule review. If all filings are not completed on the same day, the 3626
emergency rule, amendment, or rescission is effective on the day 3627
on which the latest filing is completed. An emergency rule, 3628
amendment, or rescission adopted under this division is not 3629
subject to section 111.15 or division ~~(F)~~(G) of section 119.03 of 3630
the Revised Code. An emergency rule, amendment, or rescission 3631
adopted under this division continues in effect until amended or 3632
rescinded by the director in accordance with division (C)(1) or 3633
(2) of this section, except that the rescission of an emergency 3634
rescission does not revive the rule rescinded. 3635

(D) Except where otherwise provided, each form, application, 3636
notice, and the like used in fulfilling the requirements of 3637
sections 5117.01 to 5117.12 of the Revised Code shall be approved 3638
by the director. 3639

Sec. 5703.14. ~~(A) Any rule adopted by the board of tax 3640~~

~~appeals and any rule of the department of taxation adopted by the~~ 3641
~~tax commissioner shall be effective on the tenth day after the day~~ 3642
~~on which the rule in final form and in compliance with division~~ 3643
~~(B) of this section is filed by the board or the commissioner as~~ 3644
~~follows:~~ 3645

~~(1) The rule shall be filed in electronic form with both the~~ 3646
~~secretary of state and the director of the legislative service~~ 3647
~~commission;~~ 3648

~~(2) The rule shall be filed in electronic form with the joint~~ 3649
~~committee on agency rule review. Division (A)(2) of this section~~ 3650
~~does not apply to any rule to which division (H) of section 119.03~~ 3651
~~of the Revised Code does not apply.~~ 3652

~~If all filings are not completed on the same day, the rule~~ 3653
~~shall be effective on the tenth day after the day on which the~~ 3654
~~latest filing is completed. If the board or the commissioner in~~ 3655
~~adopting a rule designates an effective date that is later than~~ 3656
~~the effective date provided for by this division, the rule if~~ 3657
~~filed as required by this division shall become effective on the~~ 3658
~~later date designated by the board or commissioner.~~ 3659

~~(B) The board and commissioner shall file the rule in~~ 3660
~~compliance with the following standards and procedures:~~ 3661

~~(1) The rule shall be numbered in accordance with the~~ 3662
~~numbering system devised by the director for the Ohio~~ 3663
~~administrative code.~~ 3664

~~(2) The rule shall be prepared and submitted in compliance~~ 3665
~~with the rules of the legislative service commission.~~ 3666

~~(3) The rule shall clearly state the date on which it is to~~ 3667
~~be effective and the date on which it will expire, if known.~~ 3668

~~(4) Each rule that amends or rescinds another rule shall~~ 3669
~~clearly refer to the rule that is amended or rescinded. Each~~ 3670

~~amendment shall fully restate the rule as amended.~~ 3671

~~If the director of the legislative service commission or the 3672
director's designee gives the board or commissioner notice 3673
pursuant to section 103.05 of the Revised Code that a rule filed 3674
by the board or commissioner is not in compliance with the rules 3675
of the legislative service commission, the board or commissioner 3676
shall within thirty days after receipt of the notice conform the 3677
rule to the rules of the legislative service commission as 3678
directed in the notice.~~ 3679

~~All rules of the department and board filed pursuant to 3680
division (A)(1) of this section shall be recorded by the secretary 3681
of state and the director under the name of the department or 3682
board and shall be numbered in accordance with the numbering 3683
system devised by the director. The secretary of state and the 3684
director shall preserve the rules in an accessible manner. Each 3685
such rule shall be a public record open to public inspection and 3686
may be transmitted to any law publishing company that wishes to 3687
reproduce it. Each such rule shall also be made available to 3688
interested parties upon request directed to the department.~~ 3689

~~(C) Applications for review of any rule adopted and 3690
promulgated by the tax commissioner may be filed with the board of 3691
tax appeals by any person who has been or may be injured by the 3692
operation of the rule. The appeal may be taken at any time after 3693
the rule is filed with the secretary of the state, the director of 3694
the legislative service commission, and, if applicable, the joint 3695
committee on agency rule review. Failure to file an appeal does 3696
not preclude any person from seeking any other remedy against the 3697
application of the rule to the person. The applications shall set 3698
forth, or have attached thereto and incorporated by reference, a 3699
true copy of the rule, and shall allege that the rule complained 3700
of is unreasonable and shall state the grounds upon which the 3701
allegation is based. Upon the filing of the application, the board 3702~~

shall notify the commissioner of the filing of the application, 3703
fix a time for hearing the application, notify the commissioner 3704
and the applicant of the time for the hearing, and afford both an 3705
opportunity to be heard. The appellant, the tax commissioner, and 3706
any other interested persons that the board permits, may introduce 3707
evidence. The burden of proof to show that the rule is 3708
unreasonable shall be upon the appellant. After the hearing, the 3709
board shall determine whether the rule complained of is reasonable 3710
or unreasonable. A determination that the rule complained of is 3711
unreasonable shall require a majority vote of the three members of 3712
the board, and the reasons for the determination shall be entered 3713
on the journal of the board. 3714

Upon determining that the rule complained of is unreasonable, 3715
the board shall file copies of its determination as follows: 3716

~~(1)~~(A) The determination shall be filed in electronic form 3717
with both the secretary of state and the director of the 3718
legislative service commission, who shall note the date of their 3719
receipt of the certified copies conspicuously in their files of 3720
the rules of the department; 3721

~~(2)~~(B) The determination shall be filed in electronic form 3722
with the joint committee on agency rule review. Division (C)(2) of 3723
this section does not apply to any rule to which division ~~(H)~~(C) 3724
of section 119.03 of the Revised Code does not apply. 3725

On the tenth day after the determination has been received by 3726
the secretary of state, the director, and, if applicable, the 3727
joint committee, the rule referred to in the determination shall 3728
cease to be in effect. If all filings of the determination are not 3729
completed on the same day, the rule shall remain in effect until 3730
the tenth day after the day on which the latest filing is 3731
completed. This section does not apply to licenses issued under 3732
sections 5735.02, 5739.17, and 5743.15 of the Revised Code, which 3733
shall be governed by sections 119.01 to 119.13 of the Revised 3734

Code. 3735

The board is not required to hear an application for the 3736
review of any rule where the grounds of the allegation that the 3737
rule is unreasonable have been previously contained in an 3738
application for review and have been previously heard and passed 3739
upon by the board. 3740

~~(D) As used in this section, "substantive revision" has the 3741
same meaning as in division (J) of section 119.01 of the Revised 3742
Code. 3743~~

Sec. 6111.31. All substantive wetland, stream, or lake 3744
mitigation standards, criteria, scientific methods, processes, or 3745
other procedures or policies that are used in a uniform manner by 3746
the director of environmental protection in evaluating the 3747
adequacy of a mitigation proposal contained in an application for 3748
a section 401 water quality certification shall be adopted and 3749
reviewed in accordance with sections 119.03 and ~~119.032~~ 106.03 of 3750
the Revised Code before those standards, criteria, or scientific 3751
methods have the force of law. Until that time, any such 3752
mitigation standards, criteria, scientific methods, processes, or 3753
other procedures or policies that are used by or approved for use 3754
by the director to evaluate, measure, or determine the success, 3755
approval, or denial of a mitigation proposal, but that have not 3756
been subject to review under sections 119.03 and ~~119.032~~ 106.03 of 3757
the Revised Code shall not be used as the basis for any 3758
certification or permit denial or as a standard applied to 3759
mitigation unless the applicant has been notified in advance that 3760
additional mitigation standards, criteria, scientific methods, 3761
processes, or procedures will be considered as part of the review 3762
process. 3763

Sec. 6111.51. (A)(1) The director of environmental protection 3764

shall adopt rules that establish criteria for three levels of 3765
credible data related to surface water monitoring and assessment. 3766
The rules pertaining to each level shall establish requirements 3767
for data assessment, sample collection and analytical methods, and 3768
quality assurance and quality control procedures that must be 3769
followed in order to classify data as credible at that level. The 3770
rules shall provide that level three credible data are collected 3771
by employing the most stringent methods and procedures, level two 3772
credible data are collected using methods and procedures that are 3773
less stringent than methods and procedures used to collect level 3774
three credible data, but more stringent than methods and 3775
procedures used to collect level one, and level one credible data 3776
are collected by employing the least stringent methods and 3777
procedures. 3778

The requirements established in the rules for each level of 3779
credible data shall be commensurate with, and no more stringent 3780
than necessary to support, the purposes for which the data will be 3781
used. In adopting rules under this section, the director shall 3782
consider the cost of data collection methods and procedures to 3783
persons or entities collecting data, and the burden of compliance 3784
with those methods and procedures for those persons or entities, 3785
while ensuring the degree of accuracy commensurate with the 3786
purpose for which the data will be used. No data shall be 3787
classified as credible data unless they have been collected in 3788
compliance with the applicable methods and procedures for 3789
collecting the data established in rules adopted under this 3790
section. 3791

(2) The director shall file the rules required to be adopted 3792
under division (A)(1) of this section with the secretary of state, 3793
the director of the legislative service commission, and the joint 3794
committee on agency rule review in accordance with divisions (B) 3795
and ~~(H)~~(C) of section 119.03 of the Revised Code not later than 3796

one year after ~~the effective date of this section~~ October 21, 3797
2003. As soon as practicable thereafter, the director shall 3798
proceed to adopt the rules in accordance with all other applicable 3799
provisions of Chapter 119. of the Revised Code. 3800

(B)(1) Level three credible data shall be used for the 3801
purposes specified in section 6111.52 of the Revised Code. 3802

(2) Levels two and three credible data shall be used for the 3803
purpose of evaluating the effectiveness of pollution controls for 3804
point sources and nonpoint sources and initial screening of water 3805
quality problems to determine if additional study is needed. 3806

(3) Levels one, two, and three credible data shall be used 3807
for public awareness and education activities. 3808

(C) No data shall be considered credible unless the data 3809
originate from studies and samples collected by the environmental 3810
protection agency, its contractors, federal or state environmental 3811
agencies, or qualified data collectors. However, data submitted 3812
pursuant to the requirements of a permit issued by an agency of 3813
the state or submitted as a result of findings and orders issued 3814
by the director or pursuant to a court order shall be considered 3815
credible unless the director identifies reasons why the data are 3816
not credible. 3817

(D) If the director has obtained credible data for a surface 3818
water, the director also may use historical data for the purpose 3819
of determining whether any water quality trends exist for that 3820
surface water. 3821

(E) Sections 6111.50 to 6111.56 of the Revised Code do not 3822
apply to civil or criminal enforcement actions brought under 3823
section 6111.07 of the Revised Code. 3824

(F) The director's use of credible data shall be consistent 3825
with the Federal Water Pollution Control Act. 3826

(G) Nothing in sections 6111.50 to 6111.56 of the Revised Code is an exception to statutory, common, or municipal law of trespass.

Section 2. That existing sections 101.35, 103.0511, 107.52, 107.53, 107.54, 107.55, 107.62, 107.63, 111.15, 117.20, 119.01, 119.03, 119.04, 121.39, 121.73, 121.74, 121.81, 121.82, 121.83, 121.91, 126.02, 127.18, 1531.08, 3319.22, 3319.221, 3333.021, 3333.048, 3701.34, 3737.88, 3746.04, 4117.02, 4141.14, 5103.0325, 5117.02, 5703.14, 6111.31, and 6111.51 of the Revised Code are repealed.

Section 3. That sections 119.031 and 119.032 of the Revised Code are repealed.

Section 4. Sections 106.02, 106.021, 106.022, 106.04, and 106.041 of the Revised Code are a continuation, although with revisions, of former division (I) of section 119.03 of the Revised Code.

Division (C) of section 119.03 of the Revised Code is a continuation, although with revisions, of former division (H) of that section.

Sections 106.03 and 106.031 of the Revised Code are a continuation, although with revisions, of former section 119.032 of the Revised Code.

The seventh paragraph of section 106.01 of the Revised Code is a continuation, although with revisions, of division (A)(3)(b) of former section 119.03 of the Revised Code.

Section 5. A state agency that is required to develop customer service standards under section 121.91 of the Revised Code and that has not, on the effective date of this section,

developed its initial standards shall do so not later than 3855
December 31, 2013. 3856

Section 6. The date by which the periodic review of an 3857
existing rule is to be completed has been referred to as its 3858
"119.032 review date." The Revised Code section referred to is the 3859
number of the Revised Code section under which periodic review of 3860
existing rules formerly was carried out. Because of the 3861
recodification of that former section by this act, periodic review 3862
of existing rules is to be carried out under sections 106.03 and 3863
106.031 of the Revised Code. A reference to the "119.032 review 3864
date" of a rule therefore shall be read as if it referred to 3865
periodic review of the rule under sections 106.03 and 106.031 of 3866
the Revised Code. 3867

It is recommended that the date by which the periodic review 3868
of an existing rule is to be completed be referred to as its 3869
"periodic review date." 3870

Section 7. Legislative Information Systems, in consultation 3871
with the Director of the Legislative Service Commission, the 3872
Executive Director of the Joint Committee on Agency Rule Review, 3873
the Common Sense Initiative Office, and any other person or agency 3874
involved in the electronic rule filing system, shall program or 3875
reprogram the electronic rule filing system as necessary to enable 3876
electronic filing and other electronic processing of rules and 3877
rule-making documents as required by this act. Legislative 3878
Information Systems shall complete the programming or 3879
reprogramming as soon as reasonably possible after the effective 3880
date of this section but not later than the day that is six months 3881
after that effective date. 3882

If at the time a provision of this act that contemplates 3883
electronic filing or other electronic processing of rules or 3884

rule-making documents takes effect, electronic filing or other 3885
electronic processing is not available, the provision shall be 3886
complied with manually until electronic filing or other electronic 3887
processing is available. 3888

Section 8. (A) Sections 106.02, 106.021, and 106.022 of the 3889
Revised Code do not apply to a proposed rule or revised proposed 3890
rule that was filed under division (D) of section 111.15 or former 3891
division (H) of section 119.03 of the Revised Code and, on the 3892
effective date of this section, is pending before the Joint 3893
Committee on Agency Rule Review for review under former division 3894
(I) of section 119.03 of the Revised Code. The Joint Committee 3895
shall review the proposed rule or revised proposed rule under 3896
former division (I) of section 119.03 of the Revised Code as if 3897
the division had not been repealed. 3898

(B) Sections 106.03 and 106.031 of the Revised Code do not 3899
apply to an existing rule that was filed under former section 3900
119.032 of the Revised Code and, on the effective date of this 3901
section, is pending before the Joint Committee on Agency Rule 3902
Review for review under that former section. The Joint Committee 3903
shall review the existing rule under former section 119.032 of the 3904
Revised Code as if the section had not been repealed. 3905

Section 9. The General Assembly, applying the principle 3906
stated in division (B) of section 1.52 of the Revised Code that 3907
amendments are to be harmonized if reasonably capable of 3908
simultaneous operation, finds that the following sections, 3909
presented in this act as composites of the sections as amended by 3910
the acts indicated, are the resulting versions of the sections in 3911
effect prior to the effective date of the sections as presented in 3912
this act: 3913

Section 5117.02 of the Revised Code as amended by both Am. 3914
Sub. S.B. 3 and the version of Am. Sub. S.B. 11 of the 123rd 3915

General Assembly effective on April 1, 2002.	3916
Section 5703.14 of the Revised Code as amended by both Am.	3917
Sub. S.B. 3 and the version of Am. Sub. S.B. 11 of the 123rd	3918
General Assembly effective on April 1, 2002.	3919