

**As Reported by the Senate State Government Oversight and  
Reform Committee**

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

**Am. S. B. No. 67**

**Senator Peterson**

**Cosponsors: Senators Obhof, Seitz, Hughes, Beagle, Hite**

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**A B I L L**

To amend sections 111.15, 117.11, 117.12, 117.16, 1  
117.20, and 127.18 and to enact section 117.114 of 2  
the Revised Code to create an agreed-upon 3  
procedure audit for certain eligible political 4  
subdivisions and to eliminate the Auditor of 5  
State's exemption from filing a rule summary and 6  
fiscal analysis with proposed rules. 7

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

**Section 1.** That sections 111.15, 117.11, 117.12, 117.16, 8  
117.20, and 127.18 be amended and section 117.114 of the Revised 9  
Code be enacted to read as follows: 10

**Sec. 111.15.** (A) As used in this section: 11

(1) "Rule" includes any rule, regulation, bylaw, or standard 12  
having a general and uniform operation adopted by an agency under 13  
the authority of the laws governing the agency; any appendix to a 14  
rule; and any internal management rule. "Rule" does not include 15  
any guideline adopted pursuant to section 3301.0714 of the Revised 16  
Code, any order respecting the duties of employees, any finding, 17  
any determination of a question of law or fact in a matter 18

presented to an agency, or any rule promulgated pursuant to 19  
Chapter 119., section 4141.14, division (C)(1) or (2) of section 20  
5117.02, or section 5703.14 of the Revised Code. "Rule" includes 21  
any amendment or rescission of a rule. 22

(2) "Agency" means any governmental entity of the state and 23  
includes, but is not limited to, any board, department, division, 24  
commission, bureau, society, council, institution, state college 25  
or university, community college district, technical college 26  
district, or state community college. "Agency" does not include 27  
the general assembly, the controlling board, the adjutant 28  
general's department, or any court. 29

(3) "Internal management rule" means any rule, regulation, 30  
bylaw, or standard governing the day-to-day staff procedures and 31  
operations within an agency. 32

(4) "Substantive revision" has the same meaning as in 33  
division (J) of section 119.01 of the Revised Code. 34

(B)(1) Any rule, other than a rule of an emergency nature, 35  
adopted by any agency pursuant to this section shall be effective 36  
on the tenth day after the day on which the rule in final form and 37  
in compliance with division (B)(3) of this section is filed as 38  
follows: 39

(a) The rule shall be filed in electronic form with both the 40  
secretary of state and the director of the legislative service 41  
commission; 42

(b) The rule shall be filed in electronic form with the joint 43  
committee on agency rule review. Division (B)(1)(b) of this 44  
section does not apply to any rule to which division (D) of this 45  
section does not apply. 46

An agency that adopts or amends a rule that is subject to 47  
division (D) of this section shall assign a review date to the 48  
rule that is not later than five years after its effective date. 49

If no review date is assigned to a rule, or if a review date 50  
assigned to a rule exceeds the five-year maximum, the review date 51  
for the rule is five years after its effective date. A rule with a 52  
review date is subject to review under section 119.032 of the 53  
Revised Code. This paragraph does not apply to a rule of a state 54  
college or university, community college district, technical 55  
college district, or state community college. 56

If all filings are not completed on the same day, the rule 57  
shall be effective on the tenth day after the day on which the 58  
latest filing is completed. If an agency in adopting a rule 59  
designates an effective date that is later than the effective date 60  
provided for by division (B)(1) of this section, the rule if filed 61  
as required by such division shall become effective on the later 62  
date designated by the agency. 63

Any rule that is required to be filed under division (B)(1) 64  
of this section is also subject to division (D) of this section if 65  
not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or 66  
(8) of this section. 67

If a rule incorporates a text or other material by reference, 68  
the agency shall comply with sections 121.71 to 121.76 of the 69  
Revised Code. 70

(2) A rule of an emergency nature necessary for the immediate 71  
preservation of the public peace, health, or safety shall state 72  
the reasons for the necessity. The emergency rule, in final form 73  
and in compliance with division (B)(3) of this section, shall be 74  
filed in electronic form with the secretary of state, the director 75  
of the legislative service commission, and the joint committee on 76  
agency rule review. The emergency rule is effective immediately 77  
upon completion of the latest filing, except that if the agency in 78  
adopting the emergency rule designates an effective date, or date 79  
and time of day, that is later than the effective date and time 80  
provided for by division (B)(2) of this section, the emergency 81

rule if filed as required by such division shall become effective 82  
at the later date, or later date and time of day, designated by 83  
the agency. 84

An emergency rule becomes invalid at the end of the ninetieth 85  
day it is in effect. Prior to that date, the agency may file the 86  
emergency rule as a nonemergency rule in compliance with division 87  
(B)(1) of this section. The agency may not refile the emergency 88  
rule in compliance with division (B)(2) of this section so that, 89  
upon the emergency rule becoming invalid under such division, the 90  
emergency rule will continue in effect without interruption for 91  
another ninety-day period. 92

(3) An agency shall file a rule under division (B)(1) or (2) 93  
of this section in compliance with the following standards and 94  
procedures: 95

(a) The rule shall be numbered in accordance with the 96  
numbering system devised by the director for the Ohio 97  
administrative code. 98

(b) The rule shall be prepared and submitted in compliance 99  
with the rules of the legislative service commission. 100

(c) The rule shall clearly state the date on which it is to 101  
be effective and the date on which it will expire, if known. 102

(d) Each rule that amends or rescinds another rule shall 103  
clearly refer to the rule that is amended or rescinded. Each 104  
amendment shall fully restate the rule as amended. 105

If the director of the legislative service commission or the 106  
director's designee gives an agency notice pursuant to section 107  
103.05 of the Revised Code that a rule filed by the agency is not 108  
in compliance with the rules of the legislative service 109  
commission, the agency shall within thirty days after receipt of 110  
the notice conform the rule to the rules of the commission as 111  
directed in the notice. 112

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) 113  
of this section shall be recorded by the secretary of state and 114  
the director under the title of the agency adopting the rule and 115  
shall be numbered according to the numbering system devised by the 116  
director. The secretary of state and the director shall preserve 117  
the rules in an accessible manner. Each such rule shall be a 118  
public record open to public inspection and may be transmitted to 119  
any law publishing company that wishes to reproduce it. 120

(D) At least sixty-five days before a board, commission, 121  
department, division, or bureau of the government of the state 122  
files a rule under division (B)(1) of this section, it shall file 123  
the full text of the proposed rule in electronic form with the 124  
joint committee on agency rule review, and the proposed rule is 125  
subject to legislative review and invalidation under division (I) 126  
of section 119.03 of the Revised Code. If a state board, 127  
commission, department, division, or bureau makes a substantive 128  
revision in a proposed rule after it is filed with the joint 129  
committee, the state board, commission, department, division, or 130  
bureau shall promptly file the full text of the proposed rule in 131  
its revised form in electronic form with the joint committee. The 132  
latest version of a proposed rule as filed with the joint 133  
committee supersedes each earlier version of the text of the same 134  
proposed rule. ~~Except as provided in division (F) of this section,~~ 135  
a A state board, commission, department, division, or bureau shall 136  
also file the rule summary and fiscal analysis prepared under 137  
section 127.18 of the Revised Code in electronic form along with a 138  
proposed rule, and along with a proposed rule in revised form, 139  
that is filed under this division. If a proposed rule has an 140  
adverse impact on businesses, the state board, commission, 141  
department, division, or bureau also shall file the business 142  
impact analysis, any recommendations received from the common 143  
sense initiative office, and the associated memorandum of 144  
response, if any, in electronic form along with the proposed rule, 145

or the proposed rule in revised form, that is filed under this 146  
division. 147

As used in this division, "commission" includes the public 148  
utilities commission when adopting rules under a federal or state 149  
statute. 150

This division does not apply to any of the following: 151

(1) A proposed rule of an emergency nature; 152

(2) A rule proposed under section 1121.05, 1121.06, 1155.18, 153  
1163.22, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 154  
4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised 155  
Code; 156

(3) A rule proposed by an agency other than a board, 157  
commission, department, division, or bureau of the government of 158  
the state; 159

(4) A proposed internal management rule of a board, 160  
commission, department, division, or bureau of the government of 161  
the state; 162

(5) Any proposed rule that must be adopted verbatim by an 163  
agency pursuant to federal law or rule, to become effective within 164  
sixty days of adoption, in order to continue the operation of a 165  
federally reimbursed program in this state, so long as the 166  
proposed rule contains both of the following: 167

(a) A statement that it is proposed for the purpose of 168  
complying with a federal law or rule; 169

(b) A citation to the federal law or rule that requires 170  
verbatim compliance. 171

(6) An initial rule proposed by the director of health to 172  
impose safety standards and quality-of-care standards with respect 173  
to a health service specified in section 3702.11 of the Revised 174  
Code, or an initial rule proposed by the director to impose 175

quality standards on a facility listed in division (A)(4) of 176  
section 3702.30 of the Revised Code, if section 3702.12 of the 177  
Revised Code requires that the rule be adopted under this section; 178

(7) A rule of the state lottery commission pertaining to 179  
instant game rules. 180

If a rule is exempt from legislative review under division 181  
(D)(5) of this section, and if the federal law or rule pursuant to 182  
which the rule was adopted expires, is repealed or rescinded, or 183  
otherwise terminates, the rule is thereafter subject to 184  
legislative review under division (D) of this section. 185

(E) Whenever a state board, commission, department, division, 186  
or bureau files a proposed rule or a proposed rule in revised form 187  
under division (D) of this section, it shall also file the full 188  
text of the same proposed rule or proposed rule in revised form in 189  
electronic form with the secretary of state and the director of 190  
the legislative service commission. ~~Except as provided in division~~ 191  
~~(F) of this section, a~~ A state board, commission, department, 192  
division, or bureau shall file the rule summary and fiscal 193  
analysis prepared under section 127.18 of the Revised Code in 194  
electronic form along with a proposed rule or proposed rule in 195  
revised form that is filed with the secretary of state or the 196  
director of the legislative service commission. 197

~~(F) Except as otherwise provided in this division, the~~ 198  
~~auditor of state or the auditor of state's designee is not~~ 199  
~~required to file a rule summary and fiscal analysis along with a~~ 200  
~~proposed rule, or proposed rule in revised form, that the auditor~~ 201  
~~of state proposes under section 117.12, 117.19, 117.38, or 117.43~~ 202  
~~of the Revised Code and files under division (D) or (E) of this~~ 203  
~~section.~~ 204

**Sec. 117.11.** (A) Except as otherwise provided in this 205  
division and in sections 117.112 ~~and~~, 117.113, and 117.114 of the 206

Revised Code, the auditor of state shall audit each public office 207  
at least once every two fiscal years. The auditor of state shall 208  
audit a public office each fiscal year if that public office is 209  
required to be audited on an annual basis pursuant to "The Single 210  
Audit Act of 1984," 98 Stat. 2327, 31 U.S.C.A. 7501 et seq., as 211  
amended. In the annual or biennial audit, inquiry shall be made 212  
into the methods, accuracy, and legality of the accounts, 213  
financial reports, records, files, and reports of the office, 214  
whether the laws, rules, ordinances, and orders pertaining to the 215  
office have been observed, and whether the requirements and rules 216  
of the auditor of state have been complied with. Except as 217  
otherwise provided in this division or where auditing standards or 218  
procedures dictate otherwise, each audit shall cover at least one 219  
fiscal year. If a public office is audited only once every two 220  
fiscal years, the audit shall cover both fiscal years. 221

(B) In addition to the annual or biennial audit provided for 222  
in division (A) of this section or in section 117.114 of the 223  
Revised Code, the auditor of state may conduct an audit of a 224  
public office at any time when so requested by the public office 225  
or upon the auditor of state's own initiative if the auditor of 226  
state has reasonable cause to believe that an additional audit is 227  
in the public interest. 228

(C)(1) The auditor of state shall identify any public office 229  
in which the auditor of state will be unable to conduct an audit 230  
at least once every two fiscal years as required by division (A) 231  
of this section and shall provide immediate written notice to the 232  
clerk of the legislative authority or governing board of the 233  
public office so identified. Within six months of the receipt of 234  
such notice, the legislative authority or governing board may 235  
engage an independent certified public accountant to conduct an 236  
audit pursuant to section 117.12 of the Revised Code. 237

(2) When the chief fiscal officer of a public office notifies 238



the auditor of state that an audit is required at a time prior to 239  
the next regularly scheduled audit by the auditor of state, the 240  
auditor of state shall either cause an earlier audit to be made by 241  
the auditor of state or authorize the legislative authority or 242  
governing board of the public office to engage an independent 243  
certified public accountant to conduct the required audit. The 244  
scope of the audit shall be as authorized by the auditor of state. 245

(3) The auditor of state shall approve the scope of an audit 246  
under division (C)(1) or (2) of this section as set forth in the 247  
contract for the proposed audit before the contract is executed on 248  
behalf of the public office that is to be audited. The independent 249  
accountant conducting an audit under division (C)(1) or (2) of 250  
this section shall be paid by the public office. 251

(4) The contract for attest services with an independent 252  
accountant employed pursuant to this section or section 115.56 of 253  
the Revised Code may include binding arbitration provisions, 254  
provisions of Chapter 2711. of the Revised Code, or any other 255  
alternative dispute resolution procedures to be followed in the 256  
event a dispute remains between the state or public office and the 257  
independent accountant concerning the terms of or services under 258  
the contract, or a breach of the contract, after the 259  
administrative provisions of the contract have been exhausted. 260

(D) If a uniform accounting network is established under 261  
section 117.101 of the Revised Code, the auditor of state or a 262  
certified public accountant employed pursuant to this section or 263  
section 115.56 or 117.112 of the Revised Code shall, to the extent 264  
practicable, utilize services offered by the network in order to 265  
conduct efficient and economical audits of public offices. 266

(E) The auditor of state ~~shall~~, in accordance with division 267  
(A)(3) of section 9.65 of the Revised Code and this section, may 268  
audit an annuity program for volunteer fire fighters established 269  
by a political subdivision under section 9.65 of the Revised Code. 270

As used in this section, "volunteer fire fighters" and "political subdivision" have the same meanings as in division (C) of section 9.65 of the Revised Code.

Sec. 117.114. (A) As used in this section:

(1) "Qualifying subdivision" means an agricultural society, county board of health, cemetery, conservancy district, family and children first council, fire district, ambulance district, fire and ambulance district, library, park or recreation district, regional planning commission, solid waste district, township, village, water district, sewer district, or water and sewer district, or a political subdivision determined by the auditor of state on a case-by-case basis to be a qualifying subdivision.

(2) "Eligible subdivision" means a qualifying subdivision that meets the criteria specified in this section and the criteria established by rule of the auditor of state.

(B) The auditor of state shall establish by rule an agreed-upon procedure by which eligible subdivisions may be audited. The rules shall set forth the standards, procedures, guidelines, and reporting requirements for an agreed-upon procedure audit. At a minimum, the rules shall require that, to be eligible for an agreed-upon procedure audit, a political subdivision must be a qualifying subdivision that meets all of the following criteria:

(1) The qualifying subdivision's annual budgeted expenditures do not exceed five million dollars for any fiscal year for which the agreed-upon procedure audit will be performed;

(2) The qualifying subdivision follows the auditor of state's regulatory, cash, or modified cash accounting basis;

(3) The fiscal officer or bookkeeper of the qualifying subdivision did not leave office at any time during the audit

<u>period in question;</u>	301
<u>(4) The qualifying subdivision had an audit performed under</u>	302
<u>division (A) of section 117.11 or division (A) of section 117.12</u>	303
<u>of the Revised Code within the prior two audit periods;</u>	304
<u>(5) In its most recent audit report, the qualifying</u>	305
<u>subdivision did not experience any of the following:</u>	306
<u>(a) A qualified, adverse, or disclaimer opinion;</u>	307
<u>(b) A declaration under section 117.41 of the Revised Code</u>	308
<u>that the qualifying subdivision was unauditably;</u>	309
<u>(c) A finding for recovery that indicated fraud or theft in</u>	310
<u>office; or</u>	311
<u>(d) A finding related to material control weaknesses.</u>	312
<u>(6) The qualifying subdivision is not:</u>	313
<u>(a) Under investigation by the auditor of state's special</u>	314
<u>investigations unit or is not otherwise at high risk of fraud as</u>	315
<u>determined by the auditor of state;</u>	316
<u>(b) In a fiscal emergency; or</u>	317
<u>(c) Required to be audited on an annual basis under "The</u>	318
<u>Single Audit Act of 1984," 98 Stat. 2327, 31 U.S.C. 7501 et seq.,</u>	319
<u>as amended, or under other laws, grants, bylaws, or debt</u>	320
<u>covenants.</u>	321
<u>(7) The qualifying subdivision does not have outstanding</u>	322
<u>audit fees in arrears; and</u>	323
<u>(8) Any other criteria the auditor of state determines the</u>	324
<u>qualifying subdivision must meet to be eligible for an agreed-upon</u>	325
<u>procedure audit.</u>	326
<u>(C) An eligible subdivision may, but is not required to,</u>	327
<u>engage in an agreed-upon procedure audit. If the eligible</u>	328
<u>subdivision does not engage in an agreed-upon procedure audit</u>	329

under this section and the rules adopted thereunder, the eligible 330  
subdivision instead shall undergo an audit under division (A) of 331  
section 117.11 or division (A) of section 117.12 of the Revised 332  
Code. 333

(D) An agreed-upon procedure audit shall be performed by the 334  
auditor of state or by an independent certified public accountant 335  
under the attestation standards established by the American 336  
institute of certified public accountants. Eligible subdivisions 337  
may have an agreed-upon procedure audit in two consecutive audit 338  
periods followed by one audit performed under division (A) of 339  
section 117.11 or division (A) of section 117.12 of the Revised 340  
Code. 341

(E) The auditor of state, on a case-by-case basis, may 342  
determine that a qualifying subdivision that fails to meet any one 343  
of the criteria established by rule under division (B) of this 344  
section is otherwise eligible for an agreed-upon procedure audit 345  
and may, in writing, grant a waiver of a particular criterion. 346

(F) An eligible subdivision that engages in an agreed-upon 347  
procedure audit shall continue to file an annual financial report 348  
as required under section 117.38 of the Revised Code. 349

**Sec. 117.12.** (A) Any certified public accountant engaged to 350  
perform an audit pursuant to division (C) of section 117.11 of the 351  
Revised Code shall conduct the audit pursuant to the standards, 352  
procedures, and guidelines of the auditor of state for such 353  
audits. The auditor of state shall establish these standards, 354  
procedures, and guidelines by rule. The audit shall cover the 355  
period beginning with the termination date of the most recent 356  
audit conducted under this section or under section 117.11 or 357  
117.114 of the Revised Code, and ending on the date specified by 358  
the auditor of state. The accountant shall inquire into the 359  
methods, accuracy, and legality of the accounts, records, files, 360

and reports of the public office and shall note whether, in the 361  
accountant's opinion, the laws, rules, ordinances, and orders 362  
pertaining to the public office have been complied with. ~~The~~ 363

(B) Any certified public accountant engaged to perform an 364  
agreed-upon procedure audit pursuant to section 117.114 of the 365  
Revised Code shall conduct the audit pursuant to the standards, 366  
procedures, guidelines, and reporting requirements adopted by rule 367  
of the auditor of state pursuant to that section. 368

(C) The certified public accountant shall have no authority 369  
to make formal findings of illegality, malfeasance, or gross 370  
neglect under this ~~division~~ section or section 117.23 of the 371  
Revised Code. 372

**Sec. 117.16.** (A) The auditor of state shall do all of the 373  
following: 374

(1) Develop a force account project assessment form that each 375  
public office that undertakes force account projects shall use to 376  
estimate or report the cost of a force account project. The form 377  
shall include costs for employee salaries and benefits, any other 378  
labor costs, materials, freight, fuel, hauling, overhead expense, 379  
workers' compensation premiums, and all other items of cost and 380  
expense, including a reasonable allowance for the use of all tools 381  
and equipment used on or in connection with such work and for the 382  
depreciation on the tools and equipment. 383

(2) Make the form available to public offices by any 384  
cost-effective, convenient method accessible to the auditor of 385  
state and the public offices; 386

(3) When conducting an audit under this chapter of a public 387  
office that undertakes force account projects, examine the forms 388  
and records of a sampling of the force account projects the public 389  
office completed since an audit was last conducted, to determine 390

compliance with its force account limits. 391

(B) If the auditor of state receives a complaint from any 392  
person that a public office has violated the force account limits 393  
established for that office, the auditor of state may conduct an 394  
audit in addition to the audit provided in section 117.11 or 395  
117.114 of the Revised Code if the auditor of state has reasonable 396  
cause to believe that an additional audit is in the public 397  
interest. 398

(C)(1) If the auditor of state finds that a county, township, 399  
or municipal corporation violated the force account limits 400  
established for that political subdivision, the auditor of state, 401  
in addition to any other action authorized by this chapter, shall 402  
notify the political subdivision that, for a period of one year 403  
from the date of the notification, the force account limits for 404  
the subdivision are reduced as follows: 405

(a) For a county, the limits shall be ten thousand dollars 406  
per mile for construction or reconstruction of a road and forty 407  
thousand dollars for construction, reconstruction, maintenance, or 408  
repair of a bridge or culvert; 409

(b) For a township, the limit shall be fifteen thousand 410  
dollars for maintenance and repair of a road or five thousand per 411  
mile for construction or reconstruction of a township road; 412

(c) For a municipal corporation, the limit shall be ten 413  
thousand dollars for the construction, reconstruction, widening, 414  
resurfacing, or repair of a street or other public way. 415

(2) If the auditor of state finds that a county, township, or 416  
municipal corporation violated the force account limits 417  
established for that political subdivision a second or subsequent 418  
time, the auditor of state, in addition to any other action 419  
authorized by this chapter, shall notify the political subdivision 420  
that, for a period of two years from the date of the notification, 421

the force account limits for the subdivision are reduced in 422  
accordance with division (C)(1)(a), (b), or (c) of this section. 423

(3) If the auditor of state finds that a county, township, or 424  
municipal corporation violated the force account limits 425  
established for that political subdivision a third or subsequent 426  
time, the auditor of state shall certify to the tax commissioner 427  
an amount the auditor of state determines to be twenty per cent of 428  
the total cost of the force account project that is the basis of 429  
the violation. Upon receipt of this certification, the tax 430  
commissioner shall withhold the certified amount from any funds 431  
under the tax commissioner's control that are due or payable to 432  
that political subdivision. The tax commissioner shall promptly 433  
deposit this withheld amount to the credit of the local 434  
transportation improvement program fund created by section 164.14 435  
of the Revised Code. 436

If the tax commissioner determines that no funds are due and 437  
payable to the violating political subdivision or that 438  
insufficient amounts of such funds are available to cover the 439  
entire certified amount, the tax commissioner shall withhold and 440  
deposit to the credit of the local transportation improvement 441  
program fund any amount available and certify the remaining amount 442  
to be withheld to the county auditor of the county in which the 443  
political subdivision is located. The county auditor shall 444  
withhold from that political subdivision any amount, up to that 445  
certified by the tax commissioner, that is available from any 446  
funds under the county auditor's control, that is due or payable 447  
to that political subdivision, and that can be lawfully withheld. 448  
The county auditor shall promptly pay that withheld amount to the 449  
tax commissioner for deposit into the local transportation 450  
improvement program fund. 451

The payments required under division (C)(3) of this section 452  
are in addition to the force account limit reductions described in 453

division (C)(2) of this section and also are in addition to any 454  
other action authorized by this chapter. 455

(D) If the auditor of state finds that a county, township, or 456  
municipal corporation violated its force account limits when 457  
participating in a joint force account project, the auditor of 458  
state shall impose the reduction in force account limits under 459  
division (C) of this section on all entities participating in the 460  
joint project. 461

(E) As used in this section, "force account limits" means any 462  
of the following, as applicable: 463

(1) For a county, the amounts established in section 5543.19 464  
of the Revised Code; 465

(2) For a township, the amounts established in section 466  
5575.01 of the Revised Code; 467

(3) For a municipal corporation, the amount established in 468  
section 723.52 of the Revised Code; 469

(4) For the department of transportation, the amount 470  
established in section 5517.02 of the Revised Code. 471

**Sec. 117.20.** (A) In adopting rules pursuant to Chapter 117. 472  
of the Revised Code, the auditor of state or the auditor of 473  
state's designee shall do both of the following: 474

(1) Before adopting any such rule, except a rule of an 475  
emergency nature, do each of the following: 476

(a) At least thirty-five days before any public hearing on 477  
the proposed rule-making action, mail or send by electronic mail 478  
notice of the hearing to each public office and to each statewide 479  
organization that the auditor of state or designee determines will 480  
be affected or that represents persons who will be affected by the 481  
proposed rule-making action; 482



(b) Mail or send by electronic mail a copy of the proposed 483  
rule to any person or organization that requests a copy within 484  
five days after receipt of the request; 485

(c) Consult with appropriate state and local government 486  
agencies, or with persons representative of their interests, 487  
including statewide organizations of local government officials, 488  
and consult with accounting professionals and other interested 489  
persons; 490

(d) Conduct, on the date and at the time and place designated 491  
in the notice, a public hearing at which any person affected by 492  
the proposed rule, including statewide organizations of local 493  
government officials, may appear and be heard in person, by 494  
attorney, or both, and may present the person's or organization's 495  
position or contentions orally or in writing. 496

(2) ~~Except as otherwise provided in division (A)(2) of this~~ 497  
~~section, comply~~ Comply with divisions (B) to (E) of section 111.15 498  
of the Revised Code. ~~The auditor of state is not required to file~~ 499  
~~a rule summary and fiscal analysis along with any copy of a~~ 500  
~~proposed rule, or proposed rule in revised form, that is filed~~ 501  
~~with the joint committee on agency rule review, the secretary of~~ 502  
~~state, or the director of the legislative service commission under~~ 503  
~~division (D) or (E) of section 111.15 of the Revised Code.~~ 504

(B) The auditor of state shall diligently discharge the 505  
duties imposed by divisions (A)(1)(a), (b), and (c) of this 506  
section, but failure to mail or send by electronic mail any notice 507  
or copy of a proposed rule, or to consult with any person or 508  
organization, shall not invalidate any rule. 509

(C) Notwithstanding any contrary provision of the Revised 510  
Code, the auditor of state may prepare and disseminate, to public 511  
offices and other interested persons and organizations, advisory 512  
bulletins, directives, and instructions relating to accounting and 513

financial reporting systems, budgeting procedures, fiscal 514  
controls, and the constructions by the auditor of state of 515  
constitutional and statutory provisions, court decisions, and 516  
opinions of the attorney general. The bulletins, directives, and 517  
instructions shall be of an advisory nature only. 518

(D) As used in this section, "rule" includes the adoption, 519  
amendment, or rescission of a rule. 520

**Sec. 127.18.** (A) As used in this section: 521

(1) "Rule-making agency" has the same meaning as in division 522  
(I) of section 119.01 of the Revised Code. 523

(2) "Rule" includes the adoption, amendment, or rescission of 524  
a rule. 525

(3) "Proposed rule" means the original version of a proposed 526  
rule, and each revised version of the same proposed rule, that is 527  
filed with the joint committee on agency rule review under 528  
division (D) of section 111.15 or division (H) of section 119.03 529  
of the Revised Code. 530

(B) A rule-making agency shall prepare, in the form 531  
prescribed by the joint committee on agency rule review under 532  
division (E) of this section, a complete and accurate rule summary 533  
and fiscal analysis of each proposed rule that it files under 534  
division (D) of section 111.15 or division (H) of section 119.03 535  
of the Revised Code. The rule summary and fiscal analysis shall 536  
include all of the following information: 537

(1) The name, address, and telephone number of the 538  
rule-making agency, and the name and telephone number of an 539  
individual or office within the agency designated by that agency 540  
to be responsible for coordinating and making available 541  
information in the possession of the agency regarding the proposed 542  
rule; 543

(2) The Ohio Administrative Code rule number of the proposed rule;	544 545
(3) A brief summary of, and the legal basis for, the proposed rule, including citations identifying the statute that prescribes the procedure in accordance with which the rule-making agency is required to adopt the proposed rule, the statute that authorizes the agency to adopt the proposed rule, and the statute that the agency intends to amplify or implement by adopting the proposed rule;	546 547 548 549 550 551 552
(4) An estimate, in dollars, of the amount by which the proposed rule would increase or decrease revenues or expenditures during the current biennium;	553 554 555
(5) A citation identifying the appropriation that authorizes each expenditure that would be necessitated by the proposed rule;	556 557
(6) A summary of the estimated cost of compliance with the rule to all directly affected persons;	558 559
(7) The reasons why the rule is being proposed;	560
(8) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations, an estimate in dollars of the cost of compliance with the rule, or, if dollar amounts cannot be determined, a written explanation of why it was not possible to ascertain dollar amounts;	561 562 563 564 565
(9) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations and is the result of a federal requirement, a clear explanation that the proposed state rule does not exceed the scope and intent of the requirement, or, if the state rule does exceed the minimum necessary federal requirement, a justification of the excess cost, and an estimate of the costs, including those costs for local governments, exceeding the federal requirement;	566 567 568 569 570 571 572 573

(10) If the rule has a fiscal effect on school districts, 574  
counties, townships, or municipal corporations, a comprehensive 575  
cost estimate that includes the procedure and method of 576  
calculating the costs of compliance and identifies major cost 577  
categories including personnel costs, new equipment or other 578  
capital costs, operating costs, and indirect central service costs 579  
related to the rule. The fiscal analysis shall also include a 580  
written explanation of the agency's and the affected local 581  
government's ability to pay for the new requirements and a 582  
statement of any impact the rule will have on economic 583  
development. 584

(11) If the rule incorporates a text or other material by 585  
reference, and the agency claims the incorporation by reference is 586  
exempt from compliance with sections 121.71 to 121.74 of the 587  
Revised Code because the text or other material is generally 588  
available to persons who reasonably can be expected to be affected 589  
by the rule, an explanation of how the text or other material is 590  
generally available to those persons; 591

(12) If the rule incorporates a text or other material by 592  
reference, and it was infeasible for the agency to file the text 593  
or other material electronically, an explanation of why filing the 594  
text or other material electronically was infeasible; 595

(13) If the rule is being rescinded and incorporates a text 596  
or other material by reference, and it was infeasible for the 597  
agency to file the text or other material, an explanation of why 598  
filing the text or other material was infeasible; 599

(14) Any other information the joint committee on agency rule 600  
review considers necessary to make the proposed rule or the fiscal 601  
effect of the proposed rule fully understandable. 602

(C) The rule-making agency shall file the rule summary and 603  
fiscal analysis in electronic form along with the proposed rule 604

that it files under divisions (D) and (E) of section 111.15 or 605  
divisions (B) and (H) of section 119.03 of the Revised Code. The 606  
joint committee on agency rule review shall not accept any 607  
proposed rule for filing unless a copy of the rule summary and 608  
fiscal analysis of the proposed rule, completely and accurately 609  
prepared, is filed along with the proposed rule. 610

(D) The joint committee on agency rule review shall review 611  
the fiscal effect of each proposed rule that is filed under 612  
division (D) of section 111.15 or division (H) of section 119.03 613  
of the Revised Code. 614

(E) The joint committee on agency rule review shall prescribe 615  
the form in which each rule-making agency shall prepare its rule 616  
summary and fiscal analysis of a proposed rule. 617

~~(F) This section does not require the auditor of state or the 618  
auditor of state's designee to prepare or attach a rule summary 619  
and fiscal analysis to any copy of a rule proposed under section 620  
117.12, 117.19, 117.38, or 117.43 of the Revised Code. 621~~

**Section 2.** That existing sections 111.15, 117.11, 117.12, 622  
117.16, 117.20, and 127.18 of the Revised Code are hereby 623  
repealed. 624