

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

S. B. No. 221

Senator Uecker

Cosponsors: Senators Huffman, Beagle, Sykes

A BILL

To amend sections 103.0511, 106.021, 106.03, 1
106.031, 107.52, 111.15, 119.03, 121.39, 121.71, 2
121.72, 121.73, 121.74, 121.75, 127.18, 145.09, 3
742.10, 1707.20, 3304.15, 3307.04, 3309.04, 4
3375.01, and 5505.04; to amend, for the purpose 5
of adopting a new section number as indicated in 6
parentheses, section 127.18 (106.024); to enact 7
sections 101.352, 101.353, 106.032, 121.93, 8
121.931, 121.932, and 121.933; and to repeal 9
section 121.76 of the Revised Code to reform 10
agency rule-making and legislative review 11
thereof. 12

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

Section 1. That sections 103.0511, 106.021, 106.03, 13
106.031, 107.52, 111.15, 119.03, 121.39, 121.71, 121.72, 121.73, 14
121.74, 121.75, 127.18, 145.09, 742.10, 1707.20, 3304.15, 15
3307.04, 3309.04, 3375.01, and 5505.04 be amended, section 16
127.18 (106.024) of the Revised Code be amended for the purpose 17
of adopting a new section number as indicated in parentheses, 18
and sections 101.352, 101.353, 106.032, 121.93, 121.931, 19

121.932, and 121.933 of the Revised Code be enacted to read as follows: 20
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Sec. 101.352. If the joint committee on agency rule review becomes aware that an agency subject to its jurisdiction is relying upon a principle of law or policy that, under section 121.93 of the Revised Code, should have been supplanted by its restatement in a rule, the chairperson of the joint committee, in the chairperson's sole discretion, may request the agency to appear before the joint committee to address why, notwithstanding section 121.93 of the Revised Code, it is so relying. The request shall specify the time and place at which a designee of the agency is to appear before the joint committee to address, and to answer the joint committee's questions concerning, the agency's reliance. The date set for the appearance shall be not earlier than thirty days after the joint committee transmits the request to the agency. The joint committee shall transmit the request to the agency electronically. The joint committee also shall publish the request on its web site, as part of the relevant meeting agenda, and shall indicate in conjunction with the published request that any person is invited to appear before the joint committee when the agency appears to offer and make comments to the joint committee concerning the agency's reliance. 22
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Upon receiving the request, the agency shall designate a suitable agency officer or employee to appear on behalf of the agency before the joint committee as directed in the request. The agency electronically shall notify the joint committee of the name, title, telephone number, and electronic mail address of the officer or employee who has been designated to appear before the joint committee in response to the request. 43
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Upon appearing before the joint committee, the agency's 50
designee shall address why the agency is relying upon a 51
principle of law or policy that, notwithstanding section 121.93 52
of the Revised Code, has not been supplanted by its restatement 53
in a rule. The members of the joint committee may question the 54
agency's designee concerning the agency's reliance. Any person 55
may offer and make comments to the joint committee concerning 56
the agency's reliance. 57

After the appearance has concluded, the joint committee, 58
by vote of a majority of its members, in writing may recommend 59
to the agency that it supplant the principle of law or policy 60
that it is relying upon by its restatement in a rule. The joint 61
committee shall support its recommendation with a brief 62
rationale of why, under section 121.93 of the Revised Code, the 63
principle of law or policy should be supplanted by its 64
restatement in a rule. The joint committee shall transmit the 65
recommendation electronically to the agency. 66

After receiving the recommendation from the joint 67
committee, the agency shall commence the rule-making process as 68
soon as it is reasonably feasible to do so, but not later than 69
the date that is six months after the recommendation was 70
received. The principle of law or policy as it is restated in a 71
rule does not need to be wholly congruent with the supplanted 72
principle of law or policy. The agency lawfully may improve or 73
develop further the supplanted principle of law or policy as it 74
is restated in a rule. 75

The agency may continue to rely upon the principle of law 76
or policy, but only while it is complying with the preceding 77
paragraph. The agency may not rely upon the principle of law or 78
policy in advising with regard to or in determining the rights 79

or liabilities of a person if the agency fails to commence the 80
rule-making process by the deadline specified in the preceding 81
paragraph, or if, after commencing the rule-making process, the 82
agency neglects or abandons the rule-making process before it is 83
completed. 84

Sec. 101.353. If the joint committee on agency rule review 85
becomes aware, such as through its own inquiries or by receiving 86
complaints from interested parties or stakeholders, that an 87
agency subject to its jurisdiction is required expressly or 88
impliedly by a statute to adopt a rule but appears neither to 89
have done so nor to have commenced the rule-making process, the 90
chairperson of the joint committee, in the chairperson's sole 91
discretion, may request the agency to appear before the joint 92
committee to address its apparent dereliction. The request shall 93
specify the time and place at which a designee of the agency is 94
to appear before the joint committee to address, and answer the 95
joint committee's questions concerning, the agency's apparent 96
dereliction. The request shall identify the statute that 97
expressly or impliedly requires rule-making and that apparently 98
has not been complied with. The joint committee shall transmit 99
the request to the agency electronically. The joint committee 100
also shall publish the request on its web site, and shall 101
indicate in conjunction with the published request that any 102
person is invited to appear before the joint committee when the 103
agency appears to offer and make comments to the joint committee 104
concerning the agency's apparent dereliction. 105

Upon receiving the request, the agency shall designate a 106
suitable agency officer or employee to appear on behalf of the 107
agency before the joint committee as directed in the request. 108
The agency electronically shall notify the joint committee of 109
the name, title, telephone number, and electronic mail address 110

of the officer or employee who has been designated to appear 111
before the joint committee in response to the request. 112

Upon appearing before the joint committee, the agency's 113
designee shall address why the agency apparently has neither 114
adopted a rule nor commenced the rule-making process as 115
expressly or impliedly required by the statute. The members of 116
the joint committee may question the agency's designee 117
concerning the agency's apparent dereliction. Any person may 118
offer and make comments to the joint committee concerning the 119
agency's apparent dereliction. 120

After the appearance has concluded, the joint committee, 121
by vote of a majority of its members, in writing may advise the 122
agency to commence rule-making proceedings under the statute, as 123
soon as it is reasonably feasible for the agency to do so. The 124
joint committee shall transmit the advisory electronically to 125
the agency. The joint committee also shall publish the advisory 126
on its web site. 127

Sec. 103.0511. The director of the legislative service 128
commission shall establish and maintain, and enhance and 129
improve, an electronic rule-filing system connecting: 130

(A) The legislative service commission, the joint 131
committee on agency rule review, and the secretary of state; 132

(B) The governor, the senate and house of representatives, 133
and the clerks of the senate and house of representatives; 134

(C) Each agency that files rules and other rule-making and 135
rule-related documents with the legislative service commission, 136
the joint committee on agency rule review, the department of 137
aging, the governor, the secretary of state, the general 138
assembly, or a committee of the senate or house of 139

representatives under section 106.02, 106.022, 106.024, 106.031, 140
107.54, 111.15, 117.20, 119.03, 119.0311, 119.04, 121.39, 141
121.82, ~~127.18~~, 173.01, or 5117.02 of the Revised Code or any 142
other statute; 143

(D) The several publishers of the Administrative Code; 144

(E) The common sense initiative office; and 145

(F) Any other person or governmental officer or entity 146
whose inclusion in the system is required for the system to be a 147
complete electronic rule-filing system. 148

The electronic rule-filing system is to enable rules and 149
rule-making and rule-related documents to be filed, and official 150
responses to these filings to be made, exclusively by electronic 151
means. 152

Sec. 106.021. If, upon reviewing a proposed rule or 153
revised proposed rule, the joint committee on agency rule review 154
makes any of the following findings with regard to the proposed 155
rule or revised proposed rule, the joint committee may recommend 156
to the senate and house of representatives the adoption of a 157
concurrent resolution to invalidate the proposed rule or revised 158
proposed rule or a part thereof: 159

(A) The proposed rule or revised proposed rule exceeds the 160
scope of its statutory authority. 161

(B) The proposed rule or revised proposed rule conflicts 162
with the legislative intent of the statute under which it was 163
proposed. 164

(C) The proposed rule or revised proposed rule conflicts 165
with another proposed or existing rule. 166

(D) The proposed rule or revised proposed rule 167

incorporates a text or other material by reference and ~~either~~ 168
~~the agency has failed to file the text or other material~~ 169
~~incorporated by reference as required by section 121.73 of the~~ 170
~~Revised Code or the incorporation by reference fails to meet the~~ 171
~~standards stated in sections 121.72, 121.75, and 121.76 of the~~ 172
~~Revised Code:~~ 173

(1) The accompanying citation is not such as reasonably 174
would enable a reasonable person to whom the proposed rule or 175
revised proposed rule applies readily and without charge to find 176
and inspect the incorporated text or other material; 177

(2) The accompanying citation is not such as reasonably 178
would enable the joint committee readily and without charge to 179
find and inspect the incorporated text or other material, and 180
the agency did not file or otherwise make the incorporated text 181
or other material available without charge to the joint 182
committee; or 183

(3) The agency has treated the proposed rule or revised 184
proposed rule in whole or in part as exempt from sections 121.71 185
to 121.74 of the Revised Code on grounds the incorporated text 186
or other material has one or more of the characteristics 187
described in division (B) of section 121.75 of the Revised Code, 188
but the incorporated text or other material actually does not 189
have any of those characteristics. 190

(E) The agency has failed to prepare a complete and 191
accurate rule summary and fiscal analysis of the proposed rule 192
or revised proposed rule as required by section ~~127.18~~ 106.024 193
of the Revised Code. 194

(F) The agency has failed to demonstrate through the 195
business impact analysis, recommendations from the common sense 196

initiative office, and the memorandum of response that the 197
regulatory intent of the proposed rule or revised proposed rule 198
justifies its adverse impact on businesses in this state. 199

(G) The proposed rule or revised proposed rule imposes a 200
fee that is not reasonably and fairly related to the cost 201
actually incurred by the agency in performing the function for 202
which the fee is charged. 203

Sec. ~~127.18~~ 106.024. (A) As used in this section: 204

(1) "Agency" has the meaning defined in section 106.01 of 205
the Revised Code. 206

(2) "Rule" includes the adoption, amendment, or rescission 207
of a rule. 208

(3) "Proposed rule" means the original version of a 209
proposed rule, and each revised version of the same proposed 210
rule, that is filed with the joint committee on agency rule 211
review under division (D) of section 111.15 or division (C) of 212
section 119.03 of the Revised Code. 213

(B) An agency shall prepare, on the form designed by the 214
joint committee on agency rule review, a complete and accurate 215
rule summary and fiscal analysis of each proposed rule that it 216
files under division (D) of section 111.15 or division (C) of 217
section 119.03 of the Revised Code. 218

The joint committee on agency rule review shall design a 219
form for the rule summary and fiscal analysis. The form may 220
solicit information such as the following information: 221

(1) The name, address, and telephone number of the agency, 222
and the name, telephone number, and electronic mail address of 223
an individual or office within the agency designated by that 224

agency to be responsible for coordinating and making available	225
information in the possession of the agency regarding the	226
proposed rule;	227
(2) The Ohio Administrative Code rule number of the	228
proposed rule;	229
(3) A brief summary of, and the legal basis for, the	230
proposed rule, including citations identifying the statute that	231
prescribes the procedure in accordance with which the agency is	232
required to adopt the proposed rule, the statute that authorizes	233
the agency to adopt the proposed rule, and the statute that the	234
agency intends to amplify or implement by adopting the proposed	235
rule;	236
(4) An estimate, in dollars, of the amount by which the	237
proposed rule would increase or decrease revenues or	238
expenditures during the current biennium;	239
(5) A citation identifying the appropriation that	240
authorizes each expenditure that would be necessitated by the	241
proposed rule;	242
(6) A summary of the estimated cost of compliance with the	243
rule to all directly affected persons;	244
(7) The reasons why the rule is being proposed;	245
(8) If the rule has a fiscal effect on school districts,	246
counties, townships, or municipal corporations, an estimate in	247
dollars of the cost of compliance with the rule, or, if dollar	248
amounts cannot be determined, a written explanation of why it	249
was not possible to ascertain dollar amounts;	250
(9) If the rule has a fiscal effect on school districts,	251
counties, townships, or municipal corporations and is the result	252

of a federal requirement, a clear explanation that the proposed 253
state rule does not exceed the scope and intent of the 254
requirement, or, if the state rule does exceed the minimum 255
necessary federal requirement, a justification of the excess 256
cost, and an estimate of the costs, including those costs for 257
local governments, exceeding the federal requirement; 258

(10) If the rule has a fiscal effect on school districts, 259
counties, townships, or municipal corporations, a comprehensive 260
cost estimate that includes the procedure and method of 261
calculating the costs of compliance and identifies major cost 262
categories including personnel costs, new equipment or other 263
capital costs, operating costs, and indirect central service 264
costs related to the rule. The fiscal analysis shall also 265
include a written explanation of the agency's and the affected 266
local government's ability to pay for the new requirements and a 267
statement of any impact the rule will have on economic 268
development. 269

(11) If the rule incorporates a text or other material by 270
reference, and the agency claims the incorporation by reference 271
is exempt from compliance with sections 121.71 to 121.74 of the 272
Revised Code ~~because the text or other material is generally~~ 273
~~available to persons who reasonably can be expected to be~~ 274
~~affected by the rule, an explanation of how the text or other~~ 275
~~material is generally available to those persons;~~ 276

~~(12) If the rule incorporates a text or other material by~~ 277
~~reference, and it was infeasible for the agency to file the text~~ 278
~~or other material electronically, an explanation of why filing~~ 279
~~the text or other material electronically was infeasible;~~ 280

~~(13) If the rule is being rescinded and incorporates a~~ 281
~~text or other material by reference, and it was infeasible for~~ 282

~~the agency to file the text or other material, an explanation of~~ 283
~~why filing the text or other material was infeasible on grounds~~ 284
~~the incorporated text or other material has one or more of the~~ 285
~~characteristics described in division (B) of section 121.75 of~~ 286
~~the Revised Code, an explanation of how the incorporated text or~~ 287
~~other material is exempted under that division.~~ 288

The rule summary and fiscal analysis form, instead of or 289
in addition to the foregoing, may solicit any other information 290
the joint committee on agency rule review considers necessary to 291
make the proposed rule or the fiscal effect of the proposed rule 292
fully understandable. 293

(C) The agency shall file the rule summary and fiscal 294
analysis in electronic form along with the proposed rule that it 295
files under division (D) of section 111.15 or divisions (B) and 296
(C) of section 119.03 of the Revised Code. The joint committee 297
on agency rule review shall not accept any proposed rule for 298
filing unless a copy of the rule summary and fiscal analysis of 299
the proposed rule, completely and accurately prepared, is filed 300
along with the proposed rule. 301

(D) The joint committee on agency rule review shall review 302
the fiscal effect of each proposed rule that is filed under 303
division (D) of section 111.15 or division (C) of section 119.03 304
of the Revised Code. 305

Sec. 106.03. Prior to the review date of an existing rule, 306
the agency that adopted the rule shall do both of the following: 307

(A) Review the rule to determine all of the following: 308

(1) Whether the rule should be continued without 309
amendment, be amended, or be rescinded, taking into 310
consideration the purpose, scope, and intent of the statute 311

under which the rule was adopted;	312
(2) Whether the rule needs amendment or rescission to give more flexibility at the local level;	313 314
(3) Whether the rule needs amendment or rescission to eliminate unnecessary paperwork;	315 316
(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; ;	317 318 319 320 321 322
<u>(a) Whether the citation accompanying the incorporation by reference is such as reasonably would enable a reasonable person to whom the rule applies readily and without charge to find and inspect the incorporated text or other material;</u>	323 324 325 326
<u>(b) Whether the citation accompanying the incorporation by reference is such as reasonably would enable the joint committee on agency rule review readily and without charge to find and inspect the incorporated text or other material; and</u>	327 328 329 330
<u>(c) If the rule has been exempted in whole or in part from sections 121.71 to 121.74 of the Revised Code on grounds the incorporated text or other material has one or more of the characteristics described in division (B) of section 121.75 of the Revised Code, whether the incorporated text or other material actually has any of those characteristics.</u>	331 332 333 334 335 336
(5) Whether the rule duplicates, overlaps with, or conflicts with other rules;	337 338
(6) Whether the rule has an adverse impact on businesses,	339

as determined under section 107.52 of the Revised Code;	340
(7) Whether the rule contains words or phrases having	341
meanings that in contemporary usage are understood as being	342
derogatory or offensive; and	343
(8) Whether the rule requires liability insurance, a bond,	344
or any other financial responsibility instrument as a condition	345
of licensure.	346
In making its review, the agency shall consider the	347
continued need for the rule, the nature of any complaints or	348
comments received concerning the rule, and any relevant factors	349
that have changed in the subject matter area affected by the	350
rule.	351
(B) On the basis of its review of the existing rule, the	352
agency shall determine whether the existing rule needs to be	353
amended or rescinded.	354
(1) If the existing rule needs to be amended or rescinded,	355
the agency, on or before the review date of the existing rule,	356
shall commence the process of amending or rescinding the	357
existing rule in accordance with its review of the rule.	358
(2) If the existing rule does not need to be amended or	359
rescinded, proceedings shall be had under section 106.031 of the	360
Revised Code.	361
Upon the request of the agency that adopted an existing	362
rule, the joint committee on agency rule review may extend the	363
review date of the rule to a date that is not later than one	364
hundred eighty days after the review date assigned to the rule	365
by the agency. Not more than two such extensions may be allowed.	366
Sec. 106.031. If an agency, on the basis of its review of	367

a rule under section 106.03 of the Revised Code, determines that 368
the rule does not need to be amended or rescinded, proceedings 369
shall be had as follows: 370

(A)(1) If, considering only the standard of review 371
specified in division (A)(6) of section 106.03 of the Revised 372
Code, the rule has an adverse impact on businesses, the agency 373
shall prepare a business impact analysis that describes its 374
review of the rule under that division and that explains why the 375
regulatory intent of the rule justifies its adverse impact on 376
businesses. If the rule does not have an adverse impact on 377
businesses, the agency may proceed under division (B) of this 378
section. 379

(2) The agency shall transmit a copy of the full text of 380
the rule and the business impact analysis electronically to the 381
common sense initiative office. The office shall make the rule 382
and analysis available to the public on its web site under 383
section 107.62 of the Revised Code. 384

(3) The agency shall consider any recommendations made by 385
the office. 386

(4) Not earlier than the sixteenth business day after 387
transmitting the rule and analysis to the office, the agency 388
shall either (a) proceed under divisions (A)(5) and (B) of this 389
section or (b) commence, under division (B)(1) of section 106.03 390
of the Revised Code, the process of rescinding the rule or of 391
amending the rule to incorporate into the rule features the 392
recommendations suggest will eliminate or reduce the adverse 393
impact the rule has on businesses. If the agency determines to 394
amend or rescind the rule, the agency is not subject to the time 395
limit specified in division (B)(1) of section 106.03 of the 396
Revised Code. 397

(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.

(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.

(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.

(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 refileing 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 428
if the filing had not been made. 429

(D) The joint committee shall publish notice of the 430
agency's determination not to amend or rescind the rule in the 431
register of Ohio for four consecutive weeks after the rule is 432
filed under division (C) of this section. 433

(E) During the ninety-day period after a rule is filed 434
under division (C) of this section, but after the four-week 435
notice period required by division (D) of this section has 436
ended, the joint committee may recommend to the senate and house 437
of representatives the adoption of a concurrent resolution 438
invalidating the rule if the joint committee finds any of the 439
following: 440

(1) The agency improperly applied the standards in 441
division (A) of section 106.03 of the Revised Code in reviewing 442
the rule and in determining that the rule did not need amendment 443
or rescission. 444

(2) The rule has an adverse impact on businesses, and the 445
agency has failed to demonstrate through a business impact 446
analysis, recommendations from the common sense initiative 447
office, and a memorandum of response that the regulatory intent 448
of the rule justifies its adverse impact on businesses. 449

(3) If the rule incorporates a text or other material by 450
reference, ~~the agency failed to file, or to deposit or display,~~ 451
~~the text or other material incorporated by reference as required~~ 452
~~by section 121.73 or 121.74 of the Revised Code or the~~ 453
~~incorporation by reference fails to meet the standards stated in~~ 454
~~sections 121.72, 121.75, and 121.76 of the Revised Code~~ any of 455
the following applies: 456

(a) The citation accompanying the incorporation by reference is not such as reasonably would enable a reasonable person to whom the rule applies readily and without charge to find and inspect the incorporated text or other material; 457
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(b) The citation accompanying the incorporation by reference is not such as reasonably would enable the joint committee readily and without charge to find and inspect the incorporated text or other material; or 461
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(c) The rule has been exempted in whole or in part from sections 121.71 to 121.74 of the Revised Code on grounds the incorporated text or other material has one or more of the characteristics described in division (B) of section 121.75 of the Revised Code, but the incorporated text or other material actually does not have any of those characteristics. 465
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If the agency fails to comply with section 106.03 or 106.031 of the Revised Code, the joint committee shall afford the agency an opportunity to appear before the joint committee to show cause why the agency has not complied with either or both of those sections. If the agency appears before the joint committee at the time scheduled for the agency to show cause, and fails to do so, the joint committee, by vote of a majority of its members present, may recommend the adoption of a concurrent resolution invalidating the rule for the agency's failure to show cause. Or if the agency fails to appear before the joint committee at the time scheduled for the agency to show cause, the joint committee, by vote of a majority of its members present, may recommend adoption of a concurrent resolution invalidating the rule for the agency's default. 471
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When the joint committee recommends that a rule be invalidated, the recommendation does not suspend operation of 485
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the rule, and the rule remains operational pending action by the 487
senate and house of representatives on the concurrent resolution 488
embodying the recommendation. If the senate and house of 489
representatives adopt the concurrent resolution, the rule is 490
invalid. If, however, the senate and house of representatives do 491
not adopt the resolution, the rule continues in effect, and 492
shall next be reviewed according to the new review date assigned 493
to the rule. 494

Sec. 106.032. If the chairperson of the joint committee on 495
agency rule review becomes aware that an existing rule has had 496
or is having an unintended or unforeseen effect on businesses 497
that is not reasonably within the express or implied scope of 498
the statute under which the existing rule purportedly was 499
adopted, the chairperson may move that the joint committee order 500
the agency that is administering the existing rule to submit the 501
existing rule for review under section 106.031 of the Revised 502
Code, the same as if the agency had made a determination with 503
regard to the existing rule under division (B)(2) of section 504
106.03 of the Revised Code. The joint committee may adopt the 505
motion by vote of a majority of its members. 506

The joint committee shall prepare the order in writing, 507
and shall transmit the order electronically to the agency. The 508
joint committee also shall transmit a copy of the order 509
electronically to the director of the legislative service 510
commission and to the common sense initiative office. The joint 511
committee shall indicate in the order the date on which the 512
order is transmitted. The director shall publish the order in 513
the register of Ohio. 514

Upon receiving the order, the agency shall comply with the 515
order as soon as reasonably possible, but shall commence 516

compliance with the order not later than thirty days after the 517
date on which the order was transmitted. 518

When an agency complies with the order, proceedings are to 519
be had with regard to the existing rule under section 106.031 of 520
the Revised Code, the same as if the agency had made a 521
determination with regard to the existing rule under division 522
(B) (2) of section 106.03 of the Revised Code. In addition to the 523
standards of review stated in division (E) of section 106.031 of 524
the Revised Code, the joint committee may recommend to the 525
senate and house of representatives the adoption of a concurrent 526
resolution invalidating the existing rule if the joint committee 527
finds that the existing rule has an unintended or unforeseen 528
effect on businesses that is not reasonably within the express 529
or implied scope of the statute under which the agency 530
purportedly adopted the existing rule. 531

Sec. 107.52. A draft or existing rule that affects 532
businesses has an adverse impact on businesses if a provision of 533
the draft or existing rule that applies to businesses has any of 534
the following effects: 535

(A) It requires a license, permit, or any other prior 536
authorization to engage in or operate a line of business; 537

(B) It imposes a criminal penalty, a civil penalty, or 538
another sanction, or creates a cause of action, for failure to 539
comply with its terms; ~~or~~ 540

(C) It requires specific expenditures or the report of 541
information as a condition of compliance; or 542

(D) It reasonably would be likely to reduce the revenue or 543
increase the expenses of the lines of business to which it will 544
apply or applies. 545

Sec. 111.15. (A) As used in this section:	546
(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. or division (C)(1) or (2) of section 5117.02 of the Revised Code. "Rule" includes any amendment or rescission of a rule.	547 548 549 550 551 552 553 554 555 556 557
(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 district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.	558 559 560 561 562 563 564
(3) "Internal management rule" means any rule, regulation, bylaw, or standard governing the day-to-day staff procedures and operations within an agency.	565 566 567
(B)(1) Any rule, other than a rule of an emergency nature, adopted by any agency pursuant to this section shall be effective on the tenth day after the day on which the rule in final form and in compliance with division (B)(3) of this section is filed as follows:	568 569 570 571 572
(a) The rule shall be filed in electronic form with both the secretary of state and the director of the legislative	573 574

service commission; 575

(b) The rule shall be filed in electronic form with the 576
joint committee on agency rule review. Division (B)(1)(b) of 577
this section does not apply to any rule to which division (D) of 578
this section does not apply. 579

An agency that adopts or amends a rule that is subject to 580
division (D) of this section shall assign a review date to the 581
rule that is not later than five years after its effective date. 582
If a review date assigned to a rule exceeds the five-year 583
maximum, the review date for the rule is five years after its 584
effective date. A rule with a review date is subject to review 585
under section 106.03 of the Revised Code. This paragraph does 586
not apply to a rule of a state college or university, community 587
college district, technical college district, or state community 588
college. 589

If an agency in adopting a rule designates an effective 590
date that is later than the effective date provided for by 591
division (B)(1) of this section, the rule if filed as required 592
by such division shall become effective on the later date 593
designated by the agency. 594

Any rule that is required to be filed under division (B) 595
(1) of this section is also subject to division (D) of this 596
section if not exempted by that division. 597

If a rule incorporates a text or other material by 598
reference, the agency shall comply with sections 121.71 to 599
~~121.76~~121.75 of the Revised Code. 600

(2) A rule of an emergency nature necessary for the 601
immediate preservation of the public peace, health, or safety 602
shall state the reasons for the necessity. The emergency rule, 603

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 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) of this section so that, upon the emergency rule becoming invalid under such division, the emergency rule will continue in effect without interruption for another one hundred twenty-day period.

(3) An agency shall file a rule under division (B) (1) or (2) of this section 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. 633

(d) Each rule that amends or rescinds another rule shall 634
clearly refer to the rule that is amended or rescinded. Each 635
amendment shall fully restate the rule as amended. 636

If the director of the legislative service commission or 637
the director's designee gives an agency notice pursuant to 638
section 103.05 of the Revised Code that a rule filed by the 639
agency is not in compliance with the rules of the legislative 640
service commission, the agency shall within thirty days after 641
receipt of the notice conform the rule to the rules of the 642
commission as directed in the notice. 643

(C) All rules filed pursuant to divisions (B) (1) (a) and 644
(2) of this section shall be recorded by the secretary of state 645
and the director under the title of the agency adopting the rule 646
and shall be numbered according to the numbering system devised 647
by the director. The secretary of state and the director shall 648
preserve the rules in an accessible manner. Each such rule shall 649
be a public record open to public inspection and may be 650
transmitted to any law publishing company that wishes to 651
reproduce it. 652

(D) At least sixty-five days before a board, commission, 653
department, division, or bureau of the government of the state 654
files a rule under division (B) (1) of this section, it shall 655
file the full text of the proposed rule in electronic form with 656
the joint committee on agency rule review, and the proposed rule 657
is subject to legislative review and invalidation under section 658
106.021 of the Revised Code. If a state board, commission, 659
department, division, or bureau makes a revision in a proposed 660
rule after it is filed with the joint committee, the state 661
board, commission, department, division, or bureau shall 662

promptly file the full text of the proposed rule in its revised 663
form in electronic form with the joint committee. A state board, 664
commission, department, division, or bureau shall also file the 665
rule summary and fiscal analysis prepared under section ~~127.18-~~ 666
106.024 of the Revised Code in electronic form along with a 667
proposed rule, and along with a proposed rule in revised form, 668
that is filed under this division. If a proposed rule has an 669
adverse impact on businesses, the state board, commission, 670
department, division, or bureau also shall file the business 671
impact analysis, any recommendations received from the common 672
sense initiative office, and the associated memorandum of 673
response, if any, in electronic form along with the proposed 674
rule, or the proposed rule in revised form, that is filed under 675
this division. 676

A proposed rule that is subject to legislative review 677
under this division may not be adopted and filed in final form 678
under division (B) (1) of this section unless the proposed rule 679
has been filed with the joint committee on agency rule review 680
under this division and the time for the joint committee to 681
review the proposed rule has expired without recommendation of a 682
concurrent resolution to invalidate the proposed rule. 683

As used in this division, "commission" includes the public 684
utilities commission when adopting rules under a federal or 685
state statute. 686

This division does not apply to any of the following: 687

(1) A proposed rule of an emergency nature; 688

(2) A rule proposed under section 1121.05, 1121.06, 689
1155.18, 1163.22, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 690
4123.341, 4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of 691

the Revised Code;	692
(3) A rule proposed by an agency other than a board,	693
commission, department, division, or bureau of the government of	694
the state;	695
(4) A proposed internal management rule of a board,	696
commission, department, division, or bureau of the government of	697
the state;	698
(5) Any proposed rule that must be adopted verbatim by an	699
agency pursuant to federal law or rule, to become effective	700
within sixty days of adoption, in order to continue the	701
operation of a federally reimbursed program in this state, so	702
long as the proposed rule contains both of the following:	703
(a) A statement that it is proposed for the purpose of	704
complying with a federal law or rule;	705
(b) A citation to the federal law or rule that requires	706
verbatim compliance.	707
(6) An initial rule proposed by the director of health to	708
impose safety standards and quality-of-care standards with	709
respect to a health service specified in section 3702.11 of the	710
Revised Code, or an initial rule proposed by the director to	711
impose quality standards on a facility listed in division (A) (4)	712
of section 3702.30 of the Revised Code, if section 3702.12 of	713
the Revised Code requires that the rule be adopted under this	714
section;	715
(7) A rule of the state lottery commission pertaining to	716
instant game rules.	717
If a rule is exempt from legislative review under division	718
(D) (5) of this section, and if the federal law or rule pursuant	719

to which the rule was adopted expires, is repealed or rescinded, 720
or otherwise terminates, the rule is thereafter subject to 721
legislative review under division (D) of this section. 722

Whenever a state board, commission, department, division, 723
or bureau files a proposed rule or a proposed rule in revised 724
form under division (D) of this section, it shall also file the 725
full text of the same proposed rule or proposed rule in revised 726
form in electronic form with the secretary of state and the 727
director of the legislative service commission. A state board, 728
commission, department, division, or bureau shall file the rule 729
summary and fiscal analysis prepared under section ~~127.18~~ 730
106.024 of the Revised Code in electronic form along with a 731
proposed rule or proposed rule in revised form that is filed 732
with the secretary of state or the director of the legislative 733
service commission. 734

Sec. 119.03. In the adoption, amendment, or rescission of 735
any rule, an agency shall comply with the following procedure: 736

(A) Reasonable public notice shall be given in the 737
register of Ohio at least thirty days prior to the date set for 738
a hearing, in the form the agency determines. The agency shall 739
file copies of the public notice under division (B) of this 740
section. (The agency gives public notice in the register of Ohio 741
when the public notice is published in the register under that 742
division.) 743

The public notice shall include: 744

(1) A statement of the agency's intention to consider 745
adopting, amending, or rescinding a rule; 746

(2) A synopsis of the proposed rule, amendment, or rule to 747
be rescinded or a general statement of the subject matter to 748

which the proposed rule, amendment, or rescission relates; 749

(3) A statement of the reason or purpose for adopting, 750
amending, or rescinding the rule; 751

(4) The date, time, and place of a hearing on the proposed 752
action, which shall be not earlier than the thirty-first nor 753
later than the fortieth day after the proposed rule, amendment, 754
or rescission is filed under division (B) of this section. 755

In addition to public notice given in the register of 756
Ohio, the agency may give whatever other notice it reasonably 757
considers necessary to ensure notice constructively is given to 758
all persons who are subject to or affected by the proposed rule, 759
amendment, or rescission. 760

The agency shall provide a copy of the public notice 761
required under division (A) of this section to any person who 762
requests it and pays a reasonable fee, not to exceed the cost of 763
copying and mailing. 764

(B) The full text of the proposed rule, amendment, or rule 765
to be rescinded, accompanied by the public notice required under 766
division (A) of this section, shall be filed in electronic form 767
with the secretary of state and with the director of the 768
legislative service commission. (If in compliance with this 769
division an agency files more than one proposed rule, amendment, 770
or rescission at the same time, and has prepared a public notice 771
under division (A) of this section that applies to more than one 772
of the proposed rules, amendments, or rescissions, the agency 773
shall file only one notice with the secretary of state and with 774
the director for all of the proposed rules, amendments, or 775
rescissions to which the notice applies.) The proposed rule, 776
amendment, or rescission and public notice shall be filed as 777

required by this division at least sixty-five days prior to the 778
date on which the agency, in accordance with division (E) of 779
this section, issues an order adopting the proposed rule, 780
amendment, or rescission. 781

If the proposed rule, amendment, or rescission 782
incorporates a text or other material by reference, the agency 783
shall comply with sections 121.71 to ~~121.76~~121.75 of the 784
Revised Code. 785

The proposed rule, amendment, or rescission shall be 786
available for at least thirty days prior to the date of the 787
hearing at the office of the agency in printed or other legible 788
form without charge to any person affected by the proposal. 789
Failure to furnish such text to any person requesting it shall 790
not invalidate any action of the agency in connection therewith. 791

If the agency files a revision in the text of the proposed 792
rule, amendment, or rescission, it shall also promptly file the 793
full text of the proposed rule, amendment, or rescission in its 794
revised form in electronic form with the secretary of state and 795
with the director of the legislative service commission. 796

The agency shall file the rule summary and fiscal analysis 797
prepared under section ~~127.18~~106.024 of the Revised Code in 798
electronic form along with a proposed rule, amendment, or 799
rescission or proposed rule, amendment, or rescission in revised 800
form that is filed with the secretary of state or the director 801
of the legislative service commission. 802

The agency shall file the hearing report relating to a 803
proposed rule, amendment, or rescission in electronic form with 804
the secretary of state and the director of the legislative 805
service commission at the same time the agency files the hearing 806

report with the joint committee on agency rule review. 807

The director of the legislative service commission shall 808
publish in the register of Ohio the full text of the original 809
and each revised version of a proposed rule, amendment, or 810
rescission; the full text of a public notice; the full text of a 811
rule summary and fiscal analysis; and the full text of a hearing 812
report that is filed with the director under this division. 813

(C) When an agency files a proposed rule, amendment, or 814
rescission under division (B) of this section, it also shall 815
file in electronic form with the joint committee on agency rule 816
review the full text of the proposed rule, amendment, or rule to 817
be rescinded in the same form and the public notice required 818
under division (A) of this section. (If in compliance with this 819
division an agency files more than one proposed rule, amendment, 820
or rescission at the same time, and has given a public notice 821
under division (A) of this section that applies to more than one 822
of the proposed rules, amendments, or rescissions, the agency 823
shall file only one notice with the joint committee for all of 824
the proposed rules, amendments, or rescissions to which the 825
notice applies.) The proposed rule, amendment, or rescission is 826
subject to legislative review and invalidation under sections 827
106.02, 106.021, and 106.022 of the Revised Code. If the agency 828
makes a revision in a proposed rule, amendment, or rescission 829
after it is filed with the joint committee, the agency promptly 830
shall file the full text of the proposed rule, amendment, or 831
rescission in its revised form in electronic form with the joint 832
committee. 833

An agency shall file the rule summary and fiscal analysis 834
prepared under section ~~127.18~~106.024 of the Revised Code in 835
electronic form along with a proposed rule, amendment, or 836

rescission, and along with a proposed rule, amendment, or 837
rescission in revised form, that is filed under this division. 838

If a proposed rule, amendment, or rescission has an 839
adverse impact on businesses, the agency also shall file the 840
business impact analysis, any recommendations received from the 841
common sense initiative office, and the agency's memorandum of 842
response, if any, in electronic form along with the proposed 843
rule, amendment, or rescission, or along with the proposed rule, 844
amendment, or rescission in revised form, that is filed under 845
this division. 846

The agency shall file the hearing report in electronic 847
form with the joint committee before the joint committee holds 848
its public hearing on the proposed rule, amendment, or 849
rescission. The filing of a hearing report does not constitute a 850
revision of the proposed rule, amendment, or rescission to which 851
the hearing report relates. 852

If the proposed rule, amendment, or rescission requires 853
liability insurance, a bond, or any other financial 854
responsibility instrument as a condition of licensure, the 855
agency shall conduct a diligent search to determine if the 856
liability insurance, bond, or other financial responsibility 857
instrument is readily available in the amounts required as a 858
condition of licensure, and shall certify to the joint committee 859
that the search was conducted. 860

A proposed rule, amendment, or rescission that is subject 861
to legislative review under this division may not be adopted 862
under division (E) of this section or filed in final form under 863
section 119.04 of the Revised Code unless the proposed rule, 864
amendment, or rescission has been filed with the joint committee 865
on agency rule review under this division and the time for 866

legislative review of the proposed rule, amendment, or 867
rescission has expired without adoption of a concurrent 868
resolution to invalidate the proposed rule, amendment, or 869
rescission. 870

This division does not apply to: 871

(1) An emergency rule, amendment, or rescission; 872

(2) A proposed rule, amendment, or rescission that must be 873
adopted verbatim by an agency pursuant to federal law or rule, 874
to become effective within sixty days of adoption, in order to 875
continue the operation of a federally reimbursed program in this 876
state, so long as the proposed rule contains both of the 877
following: 878

(a) A statement that it is proposed for the purpose of 879
complying with a federal law or rule; 880

(b) A citation to the federal law or rule that requires 881
verbatim compliance. 882

If a rule or amendment is exempt from legislative review 883
under division (C) (2) of this section, and if the federal law or 884
rule pursuant to which the rule or amendment was adopted 885
expires, is repealed or rescinded, or otherwise terminates, the 886
rule or amendment, or its rescission, is thereafter subject to 887
legislative review under division (C) of this section. 888

(D) On the date and at the time and place designated in 889
the notice, the agency shall conduct a public hearing at which 890
any person affected by the proposed action of the agency may 891
appear and be heard in person, by the person's attorney, or 892
both, may present the person's position, arguments, or 893
contentions, orally or in writing, offer and examine witnesses, 894
and present evidence tending to show that the proposed rule, 895

amendment, or rescission, if adopted or effectuated, will be 896
unreasonable or unlawful. An agency may permit persons affected 897
by the proposed rule, amendment, or rescission to present their 898
positions, arguments, or contentions in writing, not only at the 899
hearing, but also for a reasonable period before, after, or both 900
before and after the hearing. A person who presents a position 901
or arguments or contentions in writing before or after the 902
hearing is not required to appear at the hearing. 903

At the hearing, the testimony shall be recorded. Such 904
record shall be made at the expense of the agency. The agency is 905
required to transcribe a record that is not sight readable only 906
if a person requests transcription of all or part of the record 907
and agrees to reimburse the agency for the costs of the 908
transcription. An agency may require the person to pay in 909
advance all or part of the cost of the transcription. 910

In any hearing under this section the agency may 911
administer oaths or affirmations. 912

The agency shall consider the positions, arguments, or 913
contentions presented at, or before or after, the hearing. The 914
agency shall prepare a hearing summary of the positions, 915
arguments, or contentions, and of the issues raised by the 916
positions, arguments, or contentions. The agency then shall 917
prepare a hearing report explaining, with regard to each issue, 918
how it is reflected in the rule, amendment, or rescission. If an 919
issue is not reflected in the rule, amendment, or rescission, 920
the hearing report shall explain why the issue is not reflected. 921
The agency shall include the hearing summary in the hearing 922
report as an appendix thereto. And, in the hearing report, the 923
agency shall identify the proposed rule, amendment, or 924
rescission to which the hearing report relates. 925

(E) After divisions (A), (B), (C), and (D) of this section 926
have been complied with, and when the time for legislative 927
review under sections 106.02, 106.022, and 106.023 of the 928
Revised Code has expired without adoption of a concurrent 929
resolution to invalidate the proposed rule, amendment, or 930
rescission, the agency may issue an order adopting the proposed 931
rule or the proposed amendment or rescission of the rule, 932
consistent with the synopsis or general statement included in 933
the public notice. At that time the agency shall designate the 934
effective date of the rule, amendment, or rescission, which 935
shall not be earlier than the tenth day after the rule, 936
amendment, or rescission has been filed in its final form as 937
provided in section 119.04 of the Revised Code. 938

(F) Prior to the effective date of a rule, amendment, or 939
rescission, the agency shall make a reasonable effort to inform 940
those affected by the rule, amendment, or rescission and to have 941
available for distribution to those requesting it the full text 942
of the rule as adopted or as amended. 943

(G) If the governor, upon the request of an agency, 944
determines that an emergency requires the immediate adoption, 945
amendment, or rescission of a rule, the governor shall issue an 946
order, the text of which shall be filed in electronic form with 947
the agency, the secretary of state, the director of the 948
legislative service commission, and the joint committee on 949
agency rule review, that the procedure prescribed by this 950
section with respect to the adoption, amendment, or rescission 951
of a specified rule is suspended. The agency may then adopt 952
immediately the emergency rule, amendment, or rescission and it 953
becomes effective on the date the rule, amendment, or 954
rescission, in final form and in compliance with division (A) (2) 955
of section 119.04 of the Revised Code, is filed in electronic 956

form with the secretary of state, the director of the 957
legislative service commission, and the joint committee on 958
agency rule review. The director shall publish the full text of 959
the emergency rule, amendment, or rescission in the register of 960
Ohio. 961

The emergency rule, amendment, or rescission shall become 962
invalid at the end of the one hundred twentieth day it is in 963
effect. Prior to that date the agency may adopt the emergency 964
rule, amendment, or rescission as a nonemergency rule, 965
amendment, or rescission by complying with the procedure 966
prescribed by this section for the adoption, amendment, and 967
rescission of nonemergency rules. The agency shall not use the 968
procedure of this division to readopt the emergency rule, 969
amendment, or rescission so that, upon the emergency rule, 970
amendment, or rescission becoming invalid under this division, 971
the emergency rule, amendment, or rescission will continue in 972
effect without interruption for another one-hundred-twenty-day 973
period, except when section 106.02 of the Revised Code prevents 974
the agency from adopting the emergency rule, amendment, or 975
rescission as a nonemergency rule, amendment, or rescission 976
within the one-hundred-twenty-day period. 977

This division does not apply to the adoption of any 978
emergency rule, amendment, or rescission by the tax commissioner 979
under division (C) (2) of section 5117.02 of the Revised Code. 980

(H) Rules adopted by an authority within the department of 981
job and family services for the administration or enforcement of 982
Chapter 4141. of the Revised Code or of the department of 983
taxation shall be effective without a hearing as provided by 984
this section if the statutes pertaining to such agency 985
specifically give a right of appeal to the board of tax appeals 986

or to a higher authority within the agency or to a court, and 987
also give the appellant a right to a hearing on such appeal. 988
This division does not apply to the adoption of any rule, 989
amendment, or rescission by the tax commissioner under division 990
(C) (1) or (2) of section 5117.02 of the Revised Code, or deny 991
the right to file an action for declaratory judgment as provided 992
in Chapter 2721. of the Revised Code from the decision of the 993
board of tax appeals or of the higher authority within such 994
agency. 995

Sec. 121.39. (A) As used in this section, "environmental 996
protection" means any of the following: 997

(1) Protection of human health or safety, biological 998
resources, or natural resources by preventing, reducing, or 999
remediating the pollution or degradation of air, land, or water 1000
resources or by preventing or limiting the exposure of humans, 1001
animals, or plants to pollution; 1002

(2) Appropriation or regulation of privately owned 1003
property to preserve air, land, or water resources in a natural 1004
state or to wholly or partially restore them to a natural state; 1005

(3) Regulation of the collection, management, treatment, 1006
reduction, storage, or disposal of solid, hazardous, 1007
radioactive, or other wastes; 1008

(4) Plans or programs to promote or regulate the 1009
conservation, recycling, or reuse of energy, materials, or 1010
wastes. 1011

(B) Except as otherwise provided in division (E) of this 1012
section, when proposed legislation dealing with environmental 1013
protection or containing a component dealing with environmental 1014
protection is referred to a committee of the general assembly, 1015

other than a committee on rules or reference, the sponsor of the 1016
legislation, at the time of the first hearing of the legislation 1017
before the committee, shall submit to the members of the 1018
committee a written statement identifying either the 1019
documentation that is the basis of the legislation or the 1020
federal requirement or requirements with which the legislation 1021
is intended to comply. If the legislation is not based on 1022
documentation or has not been introduced to comply with a 1023
federal requirement or requirements, the written statement from 1024
the sponsor shall so indicate. 1025

Also at the time of the first hearing of the legislation 1026
before the committee, a statewide organization that represents 1027
businesses in this state and that elects its board of directors 1028
may submit to the members of the committee a written estimate of 1029
the costs to the regulated community in this state of complying 1030
with the legislation if it is enacted. 1031

At any hearing of the legislation before the committee, a 1032
representative of any state agency, environmental advocacy 1033
organization, or consumer advocacy organization or any private 1034
citizen may present documentation containing an estimate of the 1035
monetary and other costs to public health and safety and the 1036
environment and to consumers and residential utility customers, 1037
and the effects on property values, if the legislation is not 1038
enacted. 1039

(C) Until such time as the statement required under 1040
division (B) of this section is submitted to the committee to 1041
which proposed legislation dealing with environmental protection 1042
or containing a component dealing with environmental protection 1043
was referred, the legislation shall not be reported by that 1044
committee. This requirement does not apply if the component 1045

dealing with environmental protection is removed from the 1046
legislation or if two-thirds of the members of the committee 1047
vote in favor of a motion to report the proposed legislation. 1048

(D) Except as otherwise provided in division (E) of this 1049
section, prior to adopting a rule or an amendment proposed to a 1050
rule dealing with environmental protection or containing a 1051
component dealing with environmental protection, a state agency 1052
shall do all of the following: 1053

(1) Consult with organizations that represent political 1054
subdivisions, environmental interests, business interests, and 1055
other persons affected by the proposed rule or amendment; 1056

(2) Consider documentation relevant to the need for, the 1057
environmental benefits or consequences of, other benefits of, 1058
and the technological feasibility of the proposed rule or 1059
amendment; 1060

(3) Specifically identify whether the proposed rule or 1061
amendment is being adopted or amended to enable the state to 1062
obtain or maintain approval to administer and enforce a federal 1063
environmental law or to participate in a federal environmental 1064
program, whether the proposed rule or amendment is more 1065
stringent than its federal counterpart, and, if the proposed 1066
rule or amendment is more stringent, the rationale for not 1067
incorporating its federal counterpart; 1068

(4) Include with the proposed rule or amendment and the 1069
rule summary and fiscal analysis required under section ~~127.18-~~ 1070
106.024 of the Revised Code, when they are filed with the joint 1071
committee on agency rule review in accordance with division (D) 1072
of section 111.15 or division (C) of section 119.03 of the 1073
Revised Code, one of the following in electronic form, as 1074

applicable: 1075

(a) The information identified under division (D) (3) of 1076
this section and, if the proposed rule or amendment is more 1077
stringent than its federal counterpart, as identified in that 1078
division, the documentation considered under division (D) (2) of 1079
this section; 1080

(b) If an amendment proposed to a rule is being adopted or 1081
amended under a state statute that establishes standards with 1082
which the amendment shall comply, and the proposed amendment is 1083
more stringent than the rule that it is proposing to amend, the 1084
documentation considered under division (D) (2) of this section; 1085

(c) If division (D) (4) (a) or (b) of this section is not 1086
applicable, the documentation considered under division (D) (2) 1087
of this section. 1088

If the agency subsequently files a revision of such a 1089
proposed rule or amendment in accordance with division (D) of 1090
section 111.15 or division (C) of section 119.03 of the Revised 1091
Code, the revision shall be accompanied in electronic form by 1092
the applicable information or documentation. 1093

Division (D) of this section does not apply to any 1094
emergency rule adopted under division (B) (2) of section 111.15 1095
or division (G) of section 119.03 of the Revised Code, but does 1096
apply to any such rule that subsequently is adopted as a 1097
nonemergency rule under either of those divisions. 1098

The information or documentation submitted under division 1099
(D) (4) of this section may be in the form of a summary or index 1100
of available knowledge or information and shall consist of or be 1101
based upon the best available generally accepted knowledge or 1102
information in the appropriate fields, as determined by the 1103

agency that prepared the documentation. 1104

(E) The statement required under division (B) and the 1105
information or documentation required under division (D) of this 1106
section need not be prepared or submitted with regard to a 1107
proposed statute or rule, or an amendment to a rule, if the 1108
statute, rule, or amendment is procedural or budgetary in 1109
nature, or governs the organization or operation of a state 1110
agency, and will not affect the substantive rights or 1111
obligations of any person other than a state agency or an 1112
employee or contractor of a state agency. 1113

(F) The insufficiency, incompleteness, or inadequacy of a 1114
statement, information, documentation, or a summary of 1115
information or documentation provided in accordance with 1116
division (B) or (D) of this section shall not be grounds for 1117
invalidation of any statute, rule, or amendment to a rule. 1118

(G) This section applies only to the following: 1119

(1) Legislation and components of legislation dealing with 1120
environmental protection that are introduced in the general 1121
assembly after March 5, 1996; 1122

(2) Rules and rule amendments dealing with environmental 1123
protection that are filed with the joint committee on agency 1124
rule review in accordance with division (D) of section 111.15 or 1125
division (C) of section 119.03 of the Revised Code after March 1126
5, 1996. 1127

Sec. 121.71. As used in sections 121.71 to ~~121.76~~121.75 1128
of the Revised Code: 1129

(A) "Agency" means an "agency" as defined in section 1130
111.15 or 119.01 of the Revised Code. 1131

(B) "Rule" means a new rule or an amendment to an existing rule. "Rule" includes an appendix ~~or an attachment~~ to a rule.

Sec. 121.72. An agency incorporates a text or other material into a rule by reference when it ~~states~~ refers in the rule ~~that a~~ to the text or other material ~~not contained in the rule is to be treated as if it were contained~~ spelled out or otherwise reproduced in the rule. ~~The agency shall explain in the rule how persons who reasonably can be expected to be affected by the rule can obtain copies of the text or other material that has been incorporated by reference. As part of the explanation, the agency shall state whether the incorporated text or other material is or is to be deposited in depository libraries or is or is to be displayed on a web site. If the text or other material incorporated by reference was, is, or reasonably can be expected to be subject to change, the agency, as part of the explanation, shall identify, and specify the date of, the particular edition or other version of the text or other material that is incorporated by reference. The agency shall accompany the incorporation by reference with a citation that provides information sufficient to enable a reasonable person to whom the rule applies readily and without charge to find and inspect the text or other material that has been incorporated by reference. The citation shall specify the date of the text or other material or identify a particular edition or version of the text or other material and, if available, the date of the particular edition or version. The citation may include a web site address to the text or other material and may include other information that will enable the text or other material to be found readily and without charge.~~

An agency that incorporates a text or other material by reference into a rule is presumed to have incorporated by

reference a version of the text or other material that is in 1163
existence at the time of its incorporation by reference. An 1164
agency may not incorporate by reference a future version of the 1165
text or other material that is not in existence at the time of 1166
its incorporation by reference. 1167

~~Sec. 121.73. As used in this section, "rule" has the same~~ 1168
~~meaning as in section 121.71 of the Revised Code and also~~ 1169
~~includes the rescission of an existing rule.~~ 1170

~~(A) When an agency files the original or a revised version~~ 1171
~~of a rule in proposed form under division (D) of section 111.15~~ 1172
~~or division (C) of section 119.03, or a rule for review under~~ 1173
~~section 106.03 of the Revised Code, that incorporates a text or~~ 1174
~~other material by reference, the agency also shall file in~~ 1175
~~electronic form, one complete and accurate copy of the text or~~ 1176
~~other material incorporated by reference with, or otherwise~~ 1177
~~shall make the text or other material available to, the joint~~ 1178
~~committee on agency rule review only if the accompanying~~ 1179
~~citation is not such as reasonably would enable the joint~~ 1180
~~committee readily and without charge to find and inspect the~~ 1181
~~text or other material that has been incorporated by reference.~~ 1182
~~An agency is not, however, required to file a text or other~~ 1183
~~material incorporated by reference with the joint committee if~~ 1184
~~the agency revises a rule in proposed form that incorporates a~~ 1185
~~text or other material by reference and the incorporation by~~ 1186
~~reference in the revised version of the rule is identical to the~~ 1187
~~incorporation by reference in the preceding version of the rule.~~ 1188

~~If it is infeasible for the agency to file a text or other~~ 1189
~~material incorporated by reference electronically, the agency,~~ 1190
~~as soon as possible, but not later than three days after~~ 1191
~~completing the electronic filing, shall deliver one complete and~~ 1192

~~accurate copy of the text or other material incorporated by
reference to the joint committee, and shall attach a memorandum
to the text or other material identifying the filing to which it
relates.~~ 1193
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~~An agency is not required to file a text or other material
incorporated by reference into a rule that is proposed for
rescission if it is infeasible for the agency to do so.~~ 1197
1198
1199

~~An agency shall not file a copy of a text or other
material incorporated by reference with the secretary of state
or with the director of the legislative service commission.~~ 1200
1201
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~~(B) Upon completing its review of a rule in proposed form,
or its review of a rule, that incorporates a text or other
material by reference, the joint committee shall forward its
copy of the text or other material incorporated by reference to
the director of the legislative service commission. The director
shall maintain a file of texts and other materials that are or
were incorporated by reference into rules.~~ 1203
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~~**Sec. 121.74.** As used in this section, "rule" has the same
meaning as in section 121.71 of the Revised Code and also
includes the rescission of an existing rule.~~ 1210
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~~When an agency files a rule in final form under division
(B) (1) of section 111.15 or division (A) (1) of section 119.04 of
the Revised Code that incorporates or incorporated a text or
other material by reference, the agency, prior to the effective
date of the rule, shall either:~~ 1213
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1215
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~~(A) Deposit one complete and accurate copy of the text or
other material incorporated by reference in each of the five
depository libraries designated by the state library board; or~~ 1218
1219
1220

~~(B) Display a complete and accurate copy of the text or~~ 1221

~~other material incorporated by reference on a web site~~ 1222
~~maintained or made available by the agency.~~ 1223

~~An agency is not required to comply with this section if~~ 1224
~~the text or other material incorporated by reference is~~ 1225
~~identical to a text or other material the agency, at the time~~ 1226
~~compliance with this section otherwise would be required,~~ 1227
~~already is depositing or displaying under this section.~~ 1228
ensure 1229
that the text or other material is available from the agency. 1229
The agency promptly and without charge shall make the text or 1230
other material available to any person who requests access to 1231
the text or other material. 1232

Sec. 121.75. (A) (1) Sections 121.71 to 121.74 of the 1233
Revised Code do not apply ~~with regard~~ to the incorporation by 1234
reference into a rule of any of the following ~~so long as the~~ 1235
~~incorporation by reference consists of a citation that will be~~ 1236
~~intelligible to the persons who reasonably can be expected to be~~ 1237
~~affected by the rule and that, if the incorporated text or other~~ 1238
~~material was, is, or reasonably can be expected to be subject to~~ 1239
~~change, identifies, and specifies the date of, the particular~~ 1240
~~edition or other version that is incorporated:~~ 1241

~~(A) A section of the United States Code;~~ 1242

(a) A section of the Revised Code; 1243

(b) An uncodified statute of this state; 1244

(c) An act of this state in the Laws of Ohio; 1245

(d) A rule in the Administrative Code; 1246

(e) A rule in the Monthly Record; or 1247

(f) A rule in the Register of Ohio. 1248

(2) Sections 121.71 to 121.74 of the Revised Code do not 1249
apply to the incorporation by reference into a rule of any of 1250
the following: 1251

(a) A section of the United States Code; 1252

~~(B)~~ (b) An uncodified federal statute, if it has been 1253
appended as a legislative note to a section in the United States 1254
Code; 1255

~~(C) An act of this state in the Laws of Ohio or a~~ (c) A 1256
federal act in the Statutes at Large; 1257

~~(D)~~ (d) A federal regulation in the Federal Register or 1258
Code of Federal Regulations; or 1259

~~(E) A text or other material, including, without~~ 1260
~~limitation, generally accepted industry standards, that is~~ 1261
~~generally available to persons who reasonably can be expected to~~ 1262
~~be affected by the rule.~~ 1263

(e) A federal regulation in the Federal Register. 1264

An agency that incorporates a text by reference into a 1265
rule under division (A) (2) of this section shall specify the 1266
date of the text that is being incorporated by reference. 1267

(B) Sections 121.71 to 121.74 of the Revised Code do not 1268
apply to the incorporation by reference into a rule of a text or 1269
other material insofar as the text or other material has any of 1270
the following characteristics: 1271

(1) It addresses the internal management of an agency; 1272

(2) It obtains or maintains authorization of a federally 1273
delegated program in this state; 1274

(3) It addresses or provides for the receipt of federal 1275

funds by the state under a federally funded program; 1276

(4) It is a form to be filled out or a digital application 1277
into which data is entered to fill out a form or its equivalent, 1278
but only if the form or application merely collects information 1279
and does not establish principles of law or policy; 1280

(5) It states or restates federal legislative or 1281
administrative conclusions, such as interest rates or poverty 1282
levels, that are readily ascertainable from reliable sources, 1283
and that are not reasonably susceptible to state legislative or 1284
administrative variation; 1285

(6) It states or restates generally accepted commercial, 1286
industrial, building, fire, plumbing, electrical, safety, or 1287
other codes or standards that are readily available to or 1288
ascertainable by the persons the standards are likely to affect; 1289
or 1290

(7) It is copyrighted text or other material with regard 1291
to which permission to use has been obtained. 1292

Sec. 121.93. (A) An agency, at reasonable intervals, shall 1293
review its operations to identify principles of law and policy 1294
that have not been stated in a rule and that the agency is 1295
lawfully relying upon in conducting adjudications or other 1296
determinations of rights and liabilities or in issuing writings 1297
and other materials, such as instructions, directives, policy 1298
statements, guidelines, handbooks, manuals, advisories, notices, 1299
circulars, advertisements, forms, letters, and opinions. The 1300
agency shall complete at least one of the reviews during a 1301
governor's term. Within three months after the expiration of a 1302
governor's term, the agency electronically shall transmit to the 1303
joint committee on agency rule review, a notice stating that the 1304

agency has completed one or more of the reviews, specifying the 1305
exact number of reviews completed during the governor's expired 1306
term. 1307

(B) The agency shall determine whether a principle of law 1308
or policy thus identified has a general and uniform operation 1309
and establishes a legal regulation or standard that would not 1310
exist in its absence. If the principle of law or policy has 1311
these characteristics, the agency shall determine whether the 1312
principle of law or policy should be supplanted by its 1313
restatement in a rule to achieve one or more of the following as 1314
they are relevant to the principle of law or policy: 1315

(1) Assert the general and uniform operation of the 1316
principle of law or policy; 1317

(2) Make the principle of law or policy more readily 1318
available to the public; 1319

(3) Make the principle of law or policy more readily 1320
available to persons who specifically are affected by the 1321
principle of law or policy; 1322

(4) Enable the principle of law or policy to be better 1323
known in advance of its application; 1324

(5) Enable greater public participation in improvement and 1325
further development of the principle of law or policy; 1326

(6) Enable greater participation by persons specifically 1327
affected by the principle of law or policy in the improvement 1328
and further development of the principle of law or policy; 1329

(7) Make the principle of law or policy more easily 1330
understandable; or 1331

(8) Make the principle of law or policy more readily 1332

available to those legally charged with monitoring or reviewing 1333
the agency's operations. 1334

If a principle of law or policy aids in the interpretation 1335
of an existing rule or statute, the agency shall consider 1336
whether the aiding effect clarifies or otherwise resolves an 1337
uncertainty in the existing rule or statute. If the principle of 1338
law or policy can be so characterized, the agency shall consider 1339
whether the principle of law or policy should be supplanted by 1340
its restatement in an interpretive rule. The agency may not 1341
presume that a principle of law or policy that aids in the 1342
interpretation of an existing rule or statute is simply a 1343
reiteration of the existing rule or statute. 1344

(C) If the agency determines, in light of the foregoing 1345
standards, that rulemaking is indicated, the agency shall 1346
commence the rule-making process as soon as it is reasonably 1347
feasible to do so, but not later than the date that is six 1348
months after the determination was made. The principle of law or 1349
policy as it is restated in a rule does not need to be wholly 1350
congruent with the supplanted principle of law or policy. The 1351
agency lawfully may improve or develop further the supplanted 1352
principle of law or policy as it is restated in a rule. 1353

The agency may continue to rely upon the principle of law 1354
or policy, but only while it is complying with the preceding 1355
paragraph. The agency may not rely upon the principle of law or 1356
policy in advising with regard to or in determining the rights 1357
or liabilities of a person if the agency fails to commence the 1358
rule-making process by the deadline specified in the preceding 1359
paragraph, or if, after commencing the rule-making process, the 1360
agency neglects or abandons the rule-making process before it is 1361
completed. 1362

(D) A principle of law or policy that is relied upon 1363
directly or by clear implication from a statute applying to the 1364
agency does not need to be supplanted by rule. 1365

Sec. 121.931. (A) A person may petition an agency in 1366
writing to restate a principle of law or policy in a rule if (1) 1367
the person was a party to an adjudication or other determination 1368
before an agency that has resulted in an order or other 1369
disposition or was a party to a civil action in which judgment 1370
has been entered, and (2) the adjudication or other 1371
determination, or the civil action, involved a principle of law 1372
or policy relied upon by the agency that, under section 121.93 1373
of the Revised Code, should have been supplanted by its 1374
restatement in a rule but has not been so supplanted. The 1375
petition shall briefly explain why the principle of law or 1376
policy should, under section 121.93 of the Revised Code, be 1377
supplanted by its restatement in a rule. The person shall send 1378
the petition to the agency not later than the ninetieth day 1379
after the order or other disposition was issued or the judgment 1380
was entered. The person also shall send a copy of the petition 1381
to the joint committee on agency rule review. 1382

(B) The agency, not later than the thirtieth day after 1383
receiving a timely petition, shall consider the petition in 1384
light of section 121.93 of the Revised Code, and shall notify 1385
the petitioner in writing, by certified mail, return receipt 1386
requested, whether it grants or intends to deny the petition. 1387

(1) If the agency grants the petition, it shall commence 1388
the rule-making process as soon as it is reasonably feasible to 1389
do so, but not later than the date that is six months after the 1390
petition was granted. The principle of law or policy as it is 1391
restated in a rule does not need to be wholly congruent with the 1392

supplanted principle of law or policy. The agency lawfully may 1393
improve or develop further the supplanted principle of law or 1394
policy. 1395

The agency may continue to rely upon the principle of law 1396
or policy, but only while it is complying with the preceding 1397
paragraph. The agency may not rely upon the principle of law or 1398
policy in advising with regard to or in determining the rights 1399
or liabilities of a person if the agency fails to commence the 1400
rule-making process by the deadline specified in the preceding 1401
paragraph, or if, after commencing the rule-making process, the 1402
agency neglects or abandons the rule-making process before it is 1403
completed. 1404

(2) If the agency intends to deny the petition, it shall 1405
send the petitioner a notice affording the petitioner an 1406
opportunity for a hearing on the petition and briefly explaining 1407
why the agency intends to deny the petition. If the petitioner 1408
does not in writing request a hearing within fifteen days after 1409
receiving the notice, the agency shall deny the petition and 1410
notify the petitioner in writing. If the petitioner responds in 1411
writing within the fifteen-day period requesting a hearing, the 1412
agency, by certified mail, return receipt requested, promptly 1413
shall notify the petitioner of the time and place for the 1414
hearing, which shall be not earlier than the thirtieth day after 1415
the notice was sent to the petitioner. 1416

(C) At the hearing, the agency shall explain why, 1417
notwithstanding section 121.93 of the Revised Code, it intends 1418
to deny the petition, and the petitioner shall explain why under 1419
that section the petitioner believes the agency's intention to 1420
be erroneous. The hearing shall be informal. The petitioner may 1421
be assisted by counsel at the hearing. 1422

(D) Not later than the thirtieth day after the hearing concludes, the agency shall grant or deny the petition. 1423
1424

(1) If the agency grants the petition, it shall commence the rule-making process as soon as it is reasonably feasible to do so, but not later than the date that is six months after the determination was made. The principle of law or policy as it is restated in a rule does not need to be wholly congruent with the supplanted principle of law or policy. The agency lawfully may improve or develop further the supplanted principle of law or policy as it is restated in a rule. 1425
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The agency may continue to rely upon the principle of law or policy, but only while it is complying with the preceding paragraph. The agency may not rely upon the principle of law or policy in advising with regard to or in determining the rights or liabilities of a person if the agency fails to commence the rule-making process by the deadline specified in the preceding paragraph, or if, after commencing the rule-making process, the agency neglects or abandons the rule-making process before it is completed. 1433
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(2) If the petitioner failed to appear at the hearing, or if the petitioner failed to persuade the agency that its intention to deny the petition is erroneous, the agency shall deny the petition. 1442
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The agency shall send notice in writing to the petitioner of the outcome. If the outcome is denial of the petition, the notice shall explain briefly why the agency is denying the petition. The petitioner is not entitled to appeal the outcome. 1446
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Sec. 121.932. A person has a cause of action if (1) a state agency makes an exception to or an amplification of a 1450
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principle of law whatever its source, (2) the agency applied the 1452
exception or amplification to the person, (3) the exception or 1453
amplification is not expressly or impliedly authorized by a 1454
statute, and (4) the person is adversely affected by the 1455
exception or amplification as it was applied to the person. The 1456
court of common pleas has exclusive original jurisdiction of the 1457
action. The action is governed by the Rules of Civil Procedure. 1458
If the person proves that the person is adversely affected by 1459
the exception or amplification as it applies to the person, the 1460
court shall enter a judgment declaring the exception or 1461
amplification to be void. If the exception or amplification is 1462
declared void, the person is entitled to costs and attorney's 1463
fees. 1464

Sec. 121.933. Sections 101.352, 101.353, 121.93, 121.931, 1465
and 121.932 of the Revised Code do not apply to: 1466

(A) The following elected state officers or their offices: 1467
the governor, the lieutenant governor, the secretary of state, 1468
the auditor of state, the treasurer of state, and the attorney 1469
general; 1470

(B) A state institution of higher education as defined in 1471
section 3345.011 of the Revised Code; or 1472

(C) The public employees retirement system, the Ohio 1473
police and fire pension fund, the state teachers retirement 1474
system, the school employees retirement system, and the state 1475
highway patrol retirement system. 1476

Sec. 145.09. The public employees retirement board shall 1477
elect from its membership a chairperson. The board shall appoint 1478
an executive director who shall serve as secretary to the board, 1479
an actuary, and other employees as necessary for the transaction 1480

of the business of the public employees retirement system. The 1481
compensation of all persons so appointed shall be fixed by the 1482
board. Such persons appointed by the board are not employees of 1483
the state and are not subject to Chapter 124. of the Revised 1484
Code. 1485

If the board provides health care coverage to employees of 1486
the retirement system, it may permit employees of the Ohio 1487
public employees deferred compensation board to participate. 1488

Effective ninety days after September 15, 2004, the board 1489
may not employ a state retirement system investment officer, as 1490
defined in section 1707.01 of the Revised Code, who does not 1491
hold a valid state retirement system investment officer license 1492
issued by the division of securities in the department of 1493
commerce. 1494

Every expense voucher of an employee, officer, or board 1495
member of the public employees retirement system shall itemize 1496
all purchases and expenditures. 1497

The board shall perform other functions as required for 1498
the proper execution of this chapter, and may adopt rules in 1499
accordance with section 111.15 of the Revised Code for the 1500
proper administration and management of this chapter. 1501

The board may take all appropriate action to avoid payment 1502
by the system or its members of federal or state income taxes on 1503
contributions to the system or amounts earned on such 1504
contributions. 1505

Notice of proposed rules shall be given to interested 1506
parties and rules adopted by the board shall be published and 1507
otherwise made available. When it files a rule with the joint 1508
committee on agency rule review pursuant to section 111.15 of 1509

the Revised Code, the board shall submit to the Ohio retirement 1510
study council a copy of the full text of the rule, and if 1511
applicable, a copy of the rule summary and fiscal analysis 1512
required by division (B) of section ~~127.18~~106.024 of the 1513
Revised Code. 1514

The board may sue and be sued, plead and be impleaded, 1515
contract and be contracted with. All of its business shall be 1516
transacted, all of its funds invested, all warrants for money 1517
drawn and payments made, and all of its cash and securities and 1518
other property shall be held in the name of the board, or in the 1519
name of its nominee, provided that nominees are authorized by 1520
retirement board resolution for the purpose of facilitating the 1521
ownership and transfer of investments. 1522

If the Ohio retirement study council establishes a uniform 1523
format for any report the board is required to submit to the 1524
council, the board shall submit the report in that format. 1525

Sec. 742.10. The board of trustees of the Ohio police and 1526
fire pension fund may sue and be sued, plead and be impleaded, 1527
contract and be contracted with, employ and fix the compensation 1528
of employees, and adopt rules for the proper administration and 1529
management of the fund. 1530

Effective ninety days after September 15, 2004, the board 1531
of trustees may not employ a state retirement system investment 1532
officer, as defined in section 1707.01 of the Revised Code, who 1533
does not hold a valid state retirement system investment officer 1534
license issued by the division of securities in the department 1535
of commerce. 1536

If the Ohio retirement study council establishes a uniform 1537
format for any report the board is required to submit to the 1538

council, the board shall submit the report in that format. 1539

The attorney general shall prescribe procedures for the 1540
adoption of rules authorized under this chapter, consistent with 1541
the provisions of section 111.15 of the Revised Code under which 1542
all rules shall be filed in order to be effective. Such 1543
procedures shall establish methods by which notice of proposed 1544
rules is given to interested parties and rules adopted by the 1545
board published and otherwise made available. When it files a 1546
rule with the joint committee on agency rule review pursuant to 1547
section 111.15 of the Revised Code, the board shall submit to 1548
the Ohio retirement study council a copy of the full text of the 1549
rule, and if applicable, a copy of the rule summary and fiscal 1550
analysis required by division (B) of section ~~127.18~~106.024 of 1551
the Revised Code. 1552

Sec. 1707.20. (A) (1) The division of securities may adopt, 1553
amend, and rescind such rules, forms, and orders as are 1554
necessary to carry out sections 1707.01 to 1707.45 of the 1555
Revised Code, including rules and forms governing registration 1556
statements, applications, and reports, and defining any terms, 1557
whether or not used in sections 1707.01 to 1707.45 of the 1558
Revised Code, insofar as the definitions are not inconsistent 1559
with these sections. For the purpose of rules and forms, the 1560
division may classify securities, persons, and matters within 1561
its jurisdiction, and prescribe different requirements for 1562
different classes. 1563

(2) Notwithstanding sections 121.71 to ~~121.76~~121.75 of 1564
the Revised Code, the division may incorporate by reference into 1565
its rules any statute enacted by the United States congress or 1566
any rule, regulation, or form promulgated by the securities and 1567
exchange commission, or by another federal agency, in a manner 1568

that also incorporates all future amendments to the statute, 1569
rule, regulation, or form. 1570

(B) No rule, form, or order may be made, amended, or 1571
rescinded unless the division finds that the action is necessary 1572
or appropriate in the public interest or for the protection of 1573
investors, clients, prospective clients, state retirement 1574
systems, or the workers' compensation system and consistent with 1575
the purposes fairly intended by the policy and provisions of 1576
sections 1707.01 to 1707.45 of the Revised Code. In prescribing 1577
rules and forms and in otherwise administering sections 1707.01 1578
to 1707.45 of the Revised Code, the division may cooperate with 1579
the securities administrators of the other states and the 1580
securities and exchange commission with a view of effectuating 1581
the policy of this section to achieve maximum uniformity in the 1582
form and content of registration statements, applications, 1583
reports, and overall securities regulation wherever practicable. 1584

(C) The division may by rule or order prescribe: 1585

(1) The form and content of financial statements required 1586
under sections 1707.01 to 1707.45 of the Revised Code; 1587

(2) The circumstances under which consolidated financial 1588
statements will be filed; 1589

(3) Whether any required financial statements shall be 1590
certified by independent or certified public accountants. All 1591
financial statements shall be prepared in accordance with 1592
generally accepted accounting practices. 1593

(D) All rules and forms of the division shall be 1594
published; and in addition to fulfilling the requirements of 1595
Chapter 119. of the Revised Code, the division shall prescribe, 1596
and shall publish and make available its rules regarding the 1597

sale of securities, the administration of sections 1707.01 to 1598
1707.45 of the Revised Code, and the procedure and practice 1599
before the division. 1600

(E) (1) No provision of sections 1707.01 to 1707.45 of the 1601
Revised Code imposing any liability applies to any act done or 1602
omitted in good faith in conformity with any rule, form, or 1603
order of the division of securities, notwithstanding that the 1604
rule, form, or order may later be amended or rescinded or be 1605
determined by judicial or other authority to be invalid for any 1606
reason, except that the issuance of an order granting 1607
effectiveness to a registration under section 1707.09 or 1608
1707.091 of the Revised Code for the purposes of this division 1609
shall not be deemed an order other than as the establishment of 1610
the fact of registration. 1611

(2) No provision of sections 1707.01 to 1707.45 of the 1612
Revised Code imposing any liability, penalty, sanction, or 1613
disqualification applies to any act done or omitted in good 1614
faith in conformity with either of the following: 1615

(a) Any provision of sections 1707.01 to 1707.45 of the 1616
Revised Code that incorporates by reference a federal statute, 1617
rule, regulation, or form; 1618

(b) Any rule, form, or order of the division that 1619
incorporates by reference a federal statute, rule, regulation, 1620
or form. 1621

Division (E) (2) of this section applies notwithstanding 1622
that the incorporation by reference, or any application of the 1623
incorporated provision, is later determined by judicial or other 1624
authority to be unconstitutional or invalid for any reason. 1625

Sec. 3304.15. (A) There is hereby created the 1626

opportunities for Ohioans with disabilities agency. The agency 1627
is the designated state unit authorized under the 1628
"Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 701, as 1629
amended, to provide vocational rehabilitation to eligible 1630
persons with disabilities. 1631

(B) The governor shall appoint an executive director of 1632
the opportunities for Ohioans with disabilities agency to serve 1633
at the pleasure of the governor and shall fix the executive 1634
director's compensation. The executive director shall devote the 1635
executive director's entire time to the duties of the executive 1636
director's office, shall hold no other office or position of 1637
trust and profit, and shall engage in no other business during 1638
the executive director's term of office. The governor may grant 1639
the executive director the authority to appoint, remove, and 1640
discipline without regard to sex, race, creed, color, age, or 1641
national origin, such other professional, administrative, and 1642
clerical staff members as are necessary to carry out the 1643
functions and duties of the agency. 1644

The executive director of the opportunities for Ohioans 1645
with disabilities agency is the executive and administrative 1646
officer of the agency. Whenever the Revised Code imposes a duty 1647
on or requires an action of the agency, the executive director 1648
shall perform the duty or action on behalf of the agency. The 1649
executive director may establish procedures for all of the 1650
following: 1651

- (1) The governance of the agency; 1652
- (2) The conduct of agency employees and officers; 1653
- (3) The performance of agency business; 1654
- (4) The custody, use, and preservation of agency records, 1655

papers, books, documents, and property. 1656

(C) The executive director shall have exclusive authority 1657
to administer the daily operation and provision of vocational 1658
rehabilitation services under this chapter. In exercising that 1659
authority, the executive director may do all of the following: 1660

(1) Adopt rules in accordance with Chapter 119. of the 1661
Revised Code; 1662

(2) Prepare and submit an annual report to the governor; 1663

(3) Certify any disbursement of funds available to the 1664
agency for vocational rehabilitation activities; 1665

(4) Take appropriate action to guarantee rights of 1666
services to people with disabilities; 1667

(5) Consult with and advise other state agencies and 1668
coordinate programs for persons with disabilities; 1669

(6) Comply with the requirements for match as part of 1670
budget submission; 1671

(7) Establish research and demonstration projects; 1672

(8) Accept, hold, invest, reinvest, or otherwise use gifts 1673
to further vocational rehabilitation; 1674

(9) For the purposes of the business enterprise program 1675
administered under sections 3304.28 to 3304.35 of the Revised 1676
Code: 1677

(a) Establish and manage small business entities owned or 1678
operated by visually impaired persons; 1679

(b) Purchase insurance; 1680

(c) Accept computers. 1681

(10) Enter into contracts and other agreements for the 1682
provision of services. 1683

(D) The executive director, by rule adopted under Chapter 1684
119. of the Revised Code, shall establish a fee schedule for 1685
vocational rehabilitation services in accordance with 34 C.F.R. 1686
361.50. 1687

Sec. 3307.04. The general administration and the 1688
management of the state teachers retirement system is hereby 1689
vested in the state teachers retirement board, which shall adopt 1690
rules necessary for the fulfillment of its duties and 1691
responsibilities under Chapter 3307. of the Revised Code. The 1692
board shall adopt policies for the operation of the system, and 1693
the investment of funds as provided by section 3307.15 of the 1694
Revised Code, and may authorize its administrative officers, or 1695
committees composed of board members, to act for the board in 1696
accord with such policies. 1697

The board may take all appropriate action to avoid payment 1698
by the system or its members of federal or state income taxes on 1699
contributions to the system or amounts earned on such 1700
contributions and to comply with any plan qualification 1701
requirements, including those on distributions, established 1702
under Title 26 of the United States Code. 1703

The attorney general shall prescribe procedures for the 1704
adoption of rules authorized under this chapter, consistent with 1705
the provision of section 111.15 of the Revised Code under which 1706
all rules shall be filed in order to be effective. Such 1707
procedures shall establish methods by which notice of proposed 1708
rules is given to interested parties and rules adopted by the 1709
board published and otherwise made available. When it files a 1710
rule with the joint committee on agency rule review pursuant to 1711

section 111.15 of the Revised Code, the board shall submit to 1712
the Ohio retirement study council a copy of the full text of the 1713
rule, and if applicable, a copy of the rule summary and fiscal 1714
analysis required by division (B) of section ~~127.18~~106.024 of 1715
the Revised Code. 1716

All rules adopted pursuant to this chapter, prior to 1717
August 20, 1976, shall be published and made available to 1718
interested parties by January 1, 1977. 1719

Sec. 3309.04. The general administration and management of 1720
the school employees retirement system and making effective 1721
Chapter 3309. of the Revised Code are hereby vested in the 1722
school employees retirement board which may adopt rules in 1723
accordance with section 111.15 of the Revised Code and may 1724
authorize its administrative officers, or committees composed of 1725
members of said board, to act for the board in accordance with 1726
such policies and subject to subsequent approval by the board. 1727

Notice of proposed rules shall be given to interested 1728
parties and rules adopted by the board shall be published and 1729
otherwise made available. When it files a rule with the joint 1730
committee on agency rule review pursuant to section 111.15 of 1731
the Revised Code, the board shall submit to the Ohio retirement 1732
study council a copy of the full text of the rule, and if 1733
applicable, a copy of the rule summary and fiscal analysis 1734
required by division (B) of section ~~127.18~~106.024 of the 1735
Revised Code. 1736

All rules adopted pursuant to this chapter, prior to 1737
August 20, 1976, shall be published and made available to 1738
interested parties by January 1, 1977. 1739

Sec. 3375.01. A state library board is hereby created to 1740

be composed of five members to be appointed by the state board 1741
of education. One member shall be appointed each year for a term 1742
of five years. No one is eligible to membership on the state 1743
library board who is or has been for a year previous to 1744
appointment a member of the state board of education. A member 1745
of the state library board shall not during the member's term of 1746
office be a member of the board of library trustees for any 1747
library in any subdivision in the state. Before entering on 1748
official duties, each member shall subscribe to the official 1749
oath of office. All vacancies on the state library board shall 1750
be filled by the state board of education by appointment for the 1751
unexpired term. The members shall receive no compensation, but 1752
shall be paid their actual and necessary expenses incurred in 1753
the performance of their duties or in the conduct of authorized 1754
board business, within or without the state. 1755

At its regular meeting next prior to the beginning of each 1756
fiscal biennium, the state library board shall elect a president 1757
and vice-president each of whom shall serve for two years or 1758
until a successor is elected and qualified. 1759

The state library board is responsible for the state 1760
library of Ohio and a statewide program of development and 1761
coordination of library services, and its powers include the 1762
following: 1763

(A) Maintain the state library, holding custody of books, 1764
periodicals, pamphlets, films, recordings, papers, and other 1765
materials and equipment. The board may purchase or procure from 1766
an insurance company licensed to do business in this state 1767
policies of insurance insuring the members of the board and the 1768
officers, employees, and agents of the state library against 1769
liability on account of damage or injury to persons or property 1770

resulting from any act or omission of the board members, 1771
officers, employees, and agents of the state library in their 1772
official capacity. 1773

(B) Accept, receive, administer, and expend, in accordance 1774
with the terms thereof, any moneys, materials, or other aid 1775
granted, appropriated, or made available to it for library 1776
purposes, by the United States, or any of its agencies, or by 1777
any other source, public or private; 1778

(C) Administer such funds as the general assembly may make 1779
available to it for the improvement of public library services, 1780
interlibrary cooperation, or for other library purposes; 1781

(D) Contract with other agencies, organizations, 1782
libraries, library schools, boards of education, universities, 1783
public and private, within or without the state, for library 1784
services, facilities, research, or any allied or related 1785
purpose; 1786

(E) In accordance with Chapter 119. of the Revised Code, 1787
approve, disapprove, or modify resolutions for establishment of 1788
county district libraries, and approve, disapprove, or modify 1789
resolutions to determine the boundaries of such districts, along 1790
county lines or otherwise, and approve, disapprove, or modify 1791
resolutions to redefine boundaries, along county lines or 1792
otherwise, where questions subsequently arise as a result of 1793
school district consolidations; 1794

(F) Upon consolidation of two or more school districts and 1795
in accordance with Chapter 119. of the Revised Code, define and 1796
adjust the boundaries of the new public library district 1797
resulting from such consolidation and resolve any disputes or 1798
questions pertaining to the boundaries, organization, and 1799

operation of the new library district; 1800

(G) Upon application of one or more boards of library 1801
trustees and in accordance with Chapter 119. of the Revised 1802
Code, define, amend, and adjust the boundaries of the library 1803
districts making such application and the boundaries of adjacent 1804
library districts; 1805

(H) Upon application of one or more boards of library 1806
trustees, or upon the state library board's own initiative, and 1807
in accordance with Chapter 119. of the Revised Code, define, 1808
amend, and adjust the boundaries of overlapping library 1809
districts to eliminate areas of overlap; 1810

(I) Upon application of any private corporation or library 1811
association maintaining a free public library prior to September 1812
4, 1947, and in accordance with Chapter 119. of the Revised 1813
Code, define, amend, and adjust the boundaries of a library 1814
district for the private corporation or library association for 1815
the sole purpose of preventing or eliminating areas of overlap 1816
with other library districts in relation to tax levies described 1817
in sections 5705.19, 5705.191, and 5705.21 of the Revised Code 1818
that are or may be levied in support of the private corporation 1819
or library association; 1820

(J) Certify its actions relating to boundaries authorized 1821
in this section, to boards of election, taxing authorities, the 1822
boards of trustees of libraries affected, and other appropriate 1823
bodies; 1824

(K) Encourage and assist the efforts of libraries and 1825
local governments to develop mutual and cooperative solutions to 1826
library service problems; 1827

(L) ~~Designate by rule five depository libraries so as to~~ 1828

~~provide statewide, geographically distributed accessibility to~~ 1829
~~agency deposits of texts or other materials that have been~~ 1830
~~incorporated by reference into rules;~~ 1831

~~(M)~~ Recommend to the governor and to the general assembly 1832
such changes in the law as will strengthen and improve library 1833
services and operations; 1834

~~(N)~~ (M) In accordance with Chapter 119. of the Revised 1835
Code, adopt such rules as are necessary for the carrying out of 1836
any function imposed on it by law, and provide such rules as are 1837
necessary for its government and the government of its 1838
employees. The board may delegate to the state librarian the 1839
management and administration of any function imposed on it by 1840
law. 1841

Sec. 5505.04. (A) (1) The general administration and 1842
management of the state highway patrol retirement system and the 1843
making effective of this chapter are hereby vested in the state 1844
highway patrol retirement board. The board may sue and be sued, 1845
plead and be impleaded, contract and be contracted with, and do 1846
all things necessary to carry out this chapter. 1847

The board shall consist of the following members: 1848

(a) The superintendent of the state highway patrol; 1849

(b) Two retirant members who reside in this state; 1850

(c) Five employee-members; 1851

(d) One member, known as the treasurer of state's 1852
investment designee, who shall be appointed by the treasurer of 1853
state for a term of four years and who shall have the following 1854
qualifications: 1855

(i) The member is a resident of this state. 1856

(ii) Within the three years immediately preceding the 1857
appointment, the member has not been employed by the public 1858
employees retirement system, police and fire pension fund, state 1859
teachers retirement system, school employees retirement system, 1860
or state highway patrol retirement system or by any person, 1861
partnership, or corporation that has provided to one of those 1862
retirement systems services of a financial or investment nature, 1863
including the management, analysis, supervision, or investment 1864
of assets. 1865

(iii) The member has direct experience in the management, 1866
analysis, supervision, or investment of assets. 1867

(iv) The member is not currently employed by the state or 1868
a political subdivision of the state. 1869

(e) Two investment expert members, who shall be appointed 1870
to four-year terms. One investment expert member shall be 1871
appointed by the governor, and one investment expert member 1872
shall be jointly appointed by the speaker of the house of 1873
representatives and the president of the senate. Each investment 1874
expert member shall have the following qualifications: 1875

(i) Each investment expert member shall be a resident of 1876
this state. 1877

(ii) Within the three years immediately preceding the 1878
appointment, each investment expert member shall not have been 1879
employed by the public employees retirement system, police and 1880
fire pension fund, state teachers retirement system, school 1881
employees retirement system, or state highway patrol retirement 1882
system or by any person, partnership, or corporation that has 1883
provided to one of those retirement systems services of a 1884
financial or investment nature, including the management, 1885

analysis, supervision, or investment of assets. 1886

(iii) Each investment expert member shall have direct 1887
experience in the management, analysis, supervision, or 1888
investment of assets. 1889

(2) The board shall annually elect a chairperson and vice- 1890
chairperson from among its members. The vice-chairperson shall 1891
act as chairperson in the absence of the chairperson. A majority 1892
of the members of the board shall constitute a quorum. The board 1893
shall meet not less than once each year, upon sufficient notice 1894
to the members. All meetings of the board shall be open to the 1895
public except executive sessions as set forth in division (G) of 1896
section 121.22 of the Revised Code, and any portions of any 1897
sessions discussing medical records or the degree of disability 1898
of a member excluded from public inspection by this section. 1899

(3) Any member appointed under this section shall hold 1900
office until the end of the member's term or, if later, the date 1901
the member's successor takes office. 1902

(B) The attorney general shall prescribe procedures for 1903
the adoption of rules authorized under this chapter, consistent 1904
with the provision of section 111.15 of the Revised Code under 1905
which all rules shall be filed in order to be effective. Such 1906
procedures shall establish methods by which notice of proposed 1907
rules are given to interested parties and rules adopted by the 1908
board published and otherwise made available. When it files a 1909
rule with the joint committee on agency rule review pursuant to 1910
section 111.15 of the Revised Code, the board shall submit to 1911
the Ohio retirement study council a copy of the full text of the 1912
rule, and if applicable, a copy of the rule summary and fiscal 1913
analysis required by division (B) of section ~~127.18~~106.024 of 1914
the Revised Code. 1915

(C) (1) As used in this division, "personal history record" 1916
means information maintained by the board on an individual who 1917
is a member, former member, retirant, or beneficiary that 1918
includes the address, electronic mail address, telephone number, 1919
social security number, record of contributions, correspondence 1920
with the system, and other information the board determines to 1921
be confidential. 1922

(2) The records of the board shall be open to public 1923
inspection and may be made available in printed or electronic 1924
format, except for the following which shall be excluded: the 1925
member's, former member's, retirant's, or beneficiary's personal 1926
history record and the amount of a monthly allowance or benefit 1927
paid to a retirant, beneficiary, or survivor, except with the 1928
written authorization of the individual concerned. 1929

(D) All medical reports and recommendations are privileged 1930
except as follows: 1931

(1) Copies of such medical reports or recommendations 1932
shall be made available to the individual's personal physician, 1933
attorney, or authorized agent upon written release received from 1934
such individual or such individual's agent, or when necessary 1935
for the proper administration of the fund to the board-assigned 1936
physician. 1937

(2) Documentation required by section 2929.193 of the 1938
Revised Code shall be provided to a court holding a hearing 1939
under that section. 1940

(E) Notwithstanding the exceptions to public inspection in 1941
division (C) (2) of this section, the board may furnish the 1942
following information: 1943

(1) If a member, former member, or retirant is subject to 1944

an order issued under section 2907.15 of the Revised Code or an 1945
order issued under division (A) or (B) of section 2929.192 of 1946
the Revised Code or is convicted of or pleads guilty to a 1947
violation of section 2921.41 of the Revised Code, on written 1948
request of a prosecutor as defined in section 2935.01 of the 1949
Revised Code, the board shall furnish to the prosecutor the 1950
information requested from the individual's personal history 1951
record. 1952

(2) Pursuant to a court order issued under Chapters 3119., 1953
3121., and 3123. of the Revised Code, the board shall furnish to 1954
a court or child support enforcement agency the information 1955
required under those chapters. 1956

(3) At the written request of any nonprofit organization 1957
or association providing services to retirement system members, 1958
retirants, or beneficiaries, the board shall provide to the 1959
organization or association a list of the names and addresses of 1960
members, former members, retirants, or beneficiaries if the 1961
organization or association agrees to use such information 1962
solely in accordance with its stated purpose of providing 1963
services to such individuals and not for the benefit of other 1964
persons, organizations, or associations. The costs of compiling, 1965
copying, and mailing the list shall be paid by such entity. 1966

(4) Within fourteen days after receiving from the director 1967
of job and family services a list of the names and social 1968
security numbers of recipients of public assistance pursuant to 1969
section 5101.181 of the Revised Code, the board shall inform the 1970
auditor of state of the name, current or most recent employer 1971
address, and social security number of each member whose name 1972
and social security number are the same as those of a person 1973
whose name or social security number was submitted by the 1974

director. The board and its employees, except for purposes of 1975
furnishing the auditor of state with information required by 1976
this section, shall preserve the confidentiality of recipients 1977
of public assistance in compliance with section 5101.181 of the 1978
Revised Code. 1979

(5) The system shall comply with orders issued under 1980
section 3105.87 of the Revised Code. 1981

On the written request of an alternate payee, as defined 1982
in section 3105.80 of the Revised Code, the system shall furnish 1983
to the alternate payee information on the amount and status of 1984
any amounts payable to the alternate payee under an order issued 1985
under section 3105.171 or 3105.65 of the Revised Code. 1986

(6) At the request of any person, the board shall make 1987
available to the person copies of all documents, including 1988
resumes, in the board's possession regarding filling a vacancy 1989
of an employee member or retirant member of the board. The 1990
person who made the request shall pay the cost of compiling, 1991
copying, and mailing the documents. The information described in 1992
this division is a public record. 1993

(7) The system shall provide the notice required by 1994
section 5505.263 of the Revised Code to the prosecutor assigned 1995
to the case. 1996

(8) The system may provide information requested by the 1997
United States social security administration, United States 1998
centers for medicare and medicaid, public employees retirement 1999
system, Ohio public employees deferred compensation program, 2000
Ohio police and fire pension fund, school employees retirement 2001
system, state teachers retirement system, or Cincinnati 2002
retirement system. 2003

(F) A statement that contains information obtained from 2004
the system's records that is certified and signed by an officer 2005
of the retirement system and to which the system's official seal 2006
is affixed, or copies of the system's records to which the 2007
signature and seal are attached, shall be received as true 2008
copies of the system's records in any court or before any 2009
officer of this state. 2010

(G) The board may maintain records in printed or 2011
electronic format. 2012

Section 2. That existing sections 103.0511, 106.021, 2013
106.03, 106.031, 107.52, 111.15, 119.03, 121.39, 121.71, 121.72, 2014
121.73, 121.74, 121.75, 127.18, 145.09, 742.10, 1707.20, 2015
3304.15, 3307.04, 3309.04, 3375.01, and 5505.04 and section 2016
121.76 of the Revised Code are hereby repealed. 2017

Section 3. Sections 1 and 2 of this act take effect on the 2018
date that is six months after the effective date of this 2019
section. 2020

Section 4. Legislative Information Systems, in 2021
consultation with the Director of the Legislative Service 2022
Commission and the Executive Director of the Joint Committee on 2023
Agency Rule Review, shall program or reprogram the electronic 2024
rule filing system as necessary to enable the amendments made by 2025
this act to be fulfilled. Legislative Information Systems shall 2026
complete the programming or reprogramming as soon as reasonably 2027
possible after the effective date of this section but not later 2028
than the date that is six months after that effective date. 2029