

Sub. S. B. No. 1  
As Passed by the Senate

\_\_\_\_\_ moved to amend as follows:

In line 1 of the title, after "sections" insert "101.35,"; delete ", and"; after "106.031" insert ", 121.95, and 3701.13" 1 2

In line 2 of the title, after "101.355" insert ", 101.36" 3

In line 3 of the title, delete ", 121.95" 4

In line 6 of the title, after "rules" insert ", to require the approval of the Joint Committee on Agency Rule Review for Department of Health orders to be effective for more than fourteen days, and to modify the Department's rulemaking authority" 5 6 7 8

In line 7, after "sections" insert "101.35,"; delete ", and"; after "106.031" insert ", 121.95, and 3701.13" 9 10

In line 8, after "101.355" insert ", 101.36"; delete ", 121.95" 11

After line 10, insert: 12

**"Sec. 101.35.** There is hereby created in the general assembly the joint committee on agency rule review. The committee shall consist of five members of the house of representatives and five members of the senate. Within fifteen days after the commencement of the first regular session of each 13 14 15 16 17



general assembly, the speaker of the house of representatives 18  
shall appoint the members of the committee from the house of 19  
representatives, and the president of the senate shall appoint 20  
the members of the committee from the senate. Not more than 21  
three of the members from each house shall be of the same 22  
political party. In the first regular session of a general 23  
assembly, the chairperson of the committee shall be appointed by 24  
the speaker of the house from among the house members of the 25  
committee, and the vice-chairperson shall be appointed by the 26  
president of the senate from among the senate members of the 27  
committee. In the second regular session of a general assembly, 28  
the chairperson shall be appointed by the president of the 29  
senate from among the senate members of the committee, and the 30  
vice-chairperson shall be appointed by the speaker of the house 31  
from among the house members of the committee. The chairperson, 32  
vice-chairperson, and members of the committee shall serve until 33  
their respective successors are appointed or until they are no 34  
longer members of the general assembly. When a vacancy occurs 35  
among the officers or members of the committee, it shall be 36  
filled in the same manner as the original appointment. 37

Notwithstanding section 101.26 of the Revised Code, the 38  
members, when engaged in their duties as members of the 39  
committee on days when there is not a voting session of the 40  
member's house of the general assembly, shall be paid at the per 41  
diem rate of one hundred fifty dollars, and their necessary 42  
traveling expenses, which shall be paid from the funds 43  
appropriated for the payment of expenses of legislative 44  
committees. 45

~~The~~ Except as otherwise provided in section 101.36 of the 46  
Revised Code, the committee has the same powers as other 47  
standing or select committees of the general assembly. Six 48

members constitute a quorum. The concurrence of six members is 49  
required for the recommendation of a concurrent resolution 50  
invalidating a proposed rule under section 106.021 of the 51  
Revised Code. The concurrence of seven members is required for 52  
the recommendation of a concurrent resolution invalidating an 53  
existing rule under section 106.031 of the Revised Code. 54

When a member of the committee is absent, the president or 55  
speaker, as the case may be, may designate a substitute from the 56  
same house and political party as the absent member. The 57  
substitute shall serve on the committee in the member's absence, 58  
and is entitled to perform the duties of a member of the 59  
committee. For serving on the committee, the substitute shall be 60  
paid the same per diem and necessary traveling expenses as the 61  
substitute would be entitled to receive if the substitute were a 62  
member of the committee. 63

The president or speaker shall inform the executive 64  
director of the committee of a substitution. If the executive 65  
director learns of a substitution sufficiently in advance of the 66  
meeting of the committee the substitute is to attend, the 67  
executive director shall publish notice of the substitution on 68  
the internet, make reasonable effort to inform of the 69  
substitution persons who are known to the executive director to 70  
be interested in rules that are scheduled for review at the 71  
meeting, and inform of the substitution persons who inquire of 72  
the executive director concerning the meeting. 73

The committee may meet during periods in which the general 74  
assembly has adjourned. 75

At meetings of the committee, the committee may request an 76  
agency, as defined in section 106.01 of the Revised Code, to 77  
provide information relative to the agency's implementation of 78

its statutory authority. 79

A member of the committee, and the executive director and 80  
staff of the committee, are entitled in their official 81  
capacities to attend, but not in their official capacities to 82  
participate in, a public hearing conducted by an agency on a 83  
proposed rule. 84

The executive director serves at the pleasure of the 85  
president and speaker by mutual consensus. The executive 86  
director may employ such technical, professional, and clerical 87  
employees as are necessary to carry out the powers and 88  
administrative duties of the committee." 89

After line 51, insert: 90

"Sec. 101.36. (A) The director of health may apply to the 91  
joint committee on agency rule review to approve the extension 92  
of an order beyond the fourteen-day period described in section 93  
3701.13 of the Revised Code. 94

(B) Notwithstanding any contrary provision of section 95  
101.35 of the Revised Code, a majority vote of the joint 96  
committee, including the affirmative vote of at least three 97  
members of the house of representatives and at least three 98  
members of the senate, is required to approve the extension of 99  
an order under this section. The joint committee shall determine 100  
the period of the extension, if any. 101

(C) Any citizen of this state shall have standing to seek 102  
a court order that the director of health comply with this 103  
section or division (C) of section 3701.13 of the Revised Code. 104  
Such a citizen shall not be required to prove that irreparable 105  
harm will result if the court does not issue the order." 106

In line 335, delete ", except that it" 107

Delete lines 336 and 337	108
In line 338, delete " <u>state</u> "	109
Delete lines 348 through 410	110
After line 410, insert:	111
<b>"Sec. 121.95.</b> (A) As used in <del>this section</del> <u>sections 121.95,</u>	112
<u>121.951, 121.952, and 121.953 of the Revised Code,</u> "state	113
agency" means an administrative department created under section	114
121.02 of the Revised Code, an administrative department head	115
appointed under section 121.03 of the Revised Code, and a state	116
agency organized under an administrative department or	117
administrative department head. "State agency" also includes the	118
department of education, the state lottery commission, the Ohio	119
casino control commission, the state racing commission, and the	120
public utilities commission of Ohio. Rules adopted by an	121
otherwise independent official or entity organized under a state	122
agency shall be attributed to the agency under which the	123
official or entity is organized for the purposes of <del>this</del>	124
<del>section</del> <u>sections 121.95, 121.951, 121.952, and 121.953 of the</u>	125
<u>Revised Code.</u>	126
(B) Not later than December 31, 2019, a state agency shall	127
review its existing rules to identify rules having one or more	128
regulatory restrictions that require or prohibit an action and	129
prepare a base inventory of the regulatory restrictions in its	130
existing rules. Rules that include the words "shall," "must,"	131
"require," "shall not," "may not," and "prohibit" shall be	132
considered to contain regulatory restrictions.	133
(C) In the base inventory, the state agency shall indicate	134
all of the following concerning each regulatory restriction:	135

(1) A description of the regulatory restriction;	136
(2) The rule number of the rule in which the regulatory restriction appears;	137 138
(3) The statute under which the regulatory restriction was adopted;	139 140
(4) Whether state or federal law expressly and specifically requires the agency to adopt the regulatory restriction or the agency adopted the regulatory restriction under the agency's general authority;	141 142 143 144
(5) Whether removing the regulatory restriction would require a change to state or federal law, provided that removing a regulatory restriction adopted under a law granting the agency general authority shall be presumed not to require a change to state or federal law;	145 146 147 148 149
(6) Any other information the joint committee on agency rule review considers necessary.	150 151
(D) The state agency shall compute and state the total number of regulatory restrictions indicated in the base inventory, shall post the base inventory on its web site, and shall electronically transmit a copy of the inventory to the joint committee. The joint committee shall review the base inventory, then transmit it electronically to the speaker of the house of representatives and the president of the senate.	152 153 154 155 156 157 158
(E) The following types of rules or regulatory restrictions are not required to be included in a state agency's inventory of regulatory restrictions:	159 160 161
(1) An internal management rule;	162
(2) An emergency rule;	163

(3) A rule that state or federal law requires the state agency to adopt verbatim;	164 165
(4) A regulatory restriction contained in materials or documents incorporated by reference into a rule pursuant to sections 121.71 to 121.75 of the Revised Code;	166 167 168
(5) A rule adopted pursuant to section 1347.15 of the Revised Code;	169 170
(6) A rule concerning instant lottery games;	171
(7) Any other rule that is not subject to review under Chapter 106. of the Revised Code.	172 173
(F) Beginning on the effective date of this section and ending on June 30, 2023, a state agency may not adopt a new regulatory restriction unless it simultaneously removes two or more other existing regulatory restrictions. The state agency may not satisfy this section by merging two or more existing regulatory restrictions into a single surviving regulatory restriction."	174 175 176 177 178 179 180
In line 428, delete " <u>If</u> " and insert " <u>Beginning July 1, 2023, if</u> "	181
After line 497, insert:	182
<b>"Sec. 3701.13.</b> <del>The</del> <u>(A) (1) Subject to division (C) of this section, the</u> department of health shall have supervision of all matters relating to the preservation of the life and health of the people and have ultimate authority in matters of quarantine and isolation, which it may declare and enforce, when neither exists, and modify, relax, or abolish, when either has been established. <del>The</del>	183 184 185 186 187 188 189
<u>(2) The</u> department may approve methods of immunization against the diseases specified in section 3313.671 of the	190 191

Revised Code for the purpose of carrying out the provisions of 192  
that section and take such actions as are necessary to encourage 193  
vaccination against those diseases. 194

~~The (B) (1) Subject to division (C) of this section, the~~ 195  
department may make special or standing orders or rules for 196  
~~preventing any of the following:~~ 197

(a) For preventing the use of fluoroscopes for nonmedical 198  
purposes that emit doses of radiation likely to be harmful to 199  
any person, ~~for;~~ 200

(b) For preventing the spread of contagious or infectious 201  
diseases, ~~for;~~ 202

(c) For governing the receipt and conveyance of remains of 203  
deceased persons, ~~and for;~~ 204

(d) For such other sanitary matters as are best controlled 205  
by a general rule. ~~Whenever~~ 206

(2) Whenever possible, the department shall work in 207  
cooperation with the health commissioner of a general or city 208  
health district. ~~The Subject to division (C) of this section,~~ 209  
the department may make and enforce orders in local matters or 210  
reassign substantive authority for mandatory programs from a 211  
general or city health district to another general or city 212  
health district when an emergency exists, or when the board of 213  
health of a general or city health district has neglected or 214  
refused to act with sufficient promptness or efficiency, or when 215  
such board has not been established as provided by sections 216  
3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 3709.12, and 217  
3709.14 of the Revised Code. In such cases, the necessary 218  
expense incurred shall be paid by the general health district or 219  
city for which the services are rendered. 220

(C) (1) No order of the department shall be effective for a period exceeding fourteen days, except with the approval of the joint committee on agency rule review, as described in section 101.36 of the Revised Code. For purposes of this division, an order is considered to be effective for a period exceeding fourteen days if the order includes an effective period that exceeds fourteen days or if the substance of the order is contained in multiple subsequently issued orders whose combined effective period exceeds fourteen days.

(2) The department may adopt rules under this section only in accordance with Chapter 119. of the Revised Code, and the department shall not adopt an emergency rule, make an emergency amendment to a rule, or rescind a rule on an emergency basis under this section, as described in that chapter.

(D) The department of health may require general or city health districts to enter into agreements for shared services under section 9.482 of the Revised Code. The department shall prepare and offer to boards of health a model contract and memorandum of understanding that are easily adaptable for use by boards of health when entering into shared services agreements. The department also may offer financial and other technical assistance to boards of health to encourage the sharing of services.

(E) As a condition precedent to receiving funding from the department of health, the director of health may require general or city health districts to apply for accreditation by July 1, 2018, and be accredited by July 1, 2020, by an accreditation body approved by the director. The director of health, by July 1, 2016, shall conduct an evaluation of general and city health district preparation for accreditation, including an evaluation

of each district's reported public health quality indicators as 251  
provided for in section 3701.98 of the Revised Code. 252

(F) The department may make evaluative studies of the 253  
nutritional status of Ohio residents, and of the food and 254  
nutrition-related programs operating within the state. Every 255  
agency of the state, at the request of the department, shall 256  
provide information and otherwise assist in the execution of 257  
such studies." 258

In line 498, after "sections" insert "101.35,"; delete ", and" 259

In line 499, after "106.031" insert ", 121.95, and 3701.13" 260

After line 499, insert: 261

**"Section 3.** Any order of the Director of Health issued 262  
under section 3701.13 of the Revised Code on or after April 29, 263  
2020, shall cease to be effective fourteen days after the 264  
effective date of this section, unless the Joint Committee on 265  
Agency Rule Review approves extensions of the orders under 266  
section 101.36 of the Revised Code, as enacted by this act." 267

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS 268

**Director of Health orders and rules** 269

**R.C. 101.35, 101.36, and 3701.13; Section 3** 270

Prohibits any order issued by the Director of Health from 271  
being effective for more than 14 days, unless the Joint 272  
Committee on Agency Rule Review (JCARR) approves an extension. 273

Specifies that any order of the Director issued on or after April 29, 2020, ceases to be effective 14 days after the bill takes effect, unless JCARR approves an extension.	274 275 276
Requires a majority vote of JCARR, including three members of the House and three members of the Senate, to approve such an extension.	277 278 279
Gives any Ohio citizen standing to seek a court order requiring the Director to comply with that requirement.	280 281
Allows the Director to make certain public health rules only in accordance with the Administrative Procedure Act, and prohibits the Director from adopting emergency rules.	282 283 284
<b>Reducing administrative rules</b>	285
<b>R.C. 107.57, 121.95, and 121.951</b>	286
In order to maintain the relevant laws enacted in the most recent Main Operating Budget (H.B. 166), modifies the bill's administrative rule reduction provisions in the following ways:	287 288 289
-No longer subjects the Attorney General, Auditor of State, Treasurer of State, or Secretary of State to the provisions;	290 291 292
-Delays until July 1, 2023, the bill's provision that prohibits a state agency that has not achieved a specified percentage reduction according to the schedule in the bill from adopting a new regulatory restriction unless the agency simultaneously removes two or more other existing regulatory restrictions. H.B. 166 enacted a blanket prohibition through June 30, 2023, against state agencies adopting a new regulatory restriction unless the agency simultaneously removes two or more other existing regulatory restrictions.	293 294 295 296 297 298 299 300 301