

**As Passed by the Senate**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Sub. S. B. No. 293**

**Senators Peterson, McColley**

**Cosponsors: Senators Obhof, Wilson, Bacon, Hoagland, Huffman, LaRose, Coley, Uecker, Jordan, Balderson, Eklund, Hackett, Hottinger, Lehner, Oelslager, Terhar**

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**A BILL**

To amend sections 106.021 and 106.03 and to enact 1  
sections 101.352, 101.353, 121.031, 121.93, 2  
121.931, 121.932, and 121.933 of the Revised 3  
Code to require certain agencies to reduce the 4  
number of regulatory restrictions. 5

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

**Section 1.** That sections 106.021 and 106.03 be amended and 6  
sections 101.352, 101.353, 121.031, 121.93, 121.931, 121.932, 7  
and 121.933 of the Revised Code be enacted to read as follows: 8

**Sec. 101.352.** The joint committee on agency rule review 9  
shall advise and assist state agencies in preparing base and 10  
revised inventories of regulatory restrictions, and shall advise 11  
and assist state agencies in achieving specified percentage 12  
reductions in regulatory restrictions in the Administrative Code 13  
in accordance with sections 121.93, 121.931, 121.932, and 14  
121.933 of the Revised Code. 15

Annually, not later than the fifteenth day of June, 16  
beginning in 2020, the executive director of the joint committee 17

shall prepare an historical report aggregating the reports 18  
received from state agencies for the preceding year. In the 19  
report, the executive director also shall describe the work of 20  
the joint committee over the preceding year with respect to 21  
reduction of regulatory restrictions, and shall indicate, out of 22  
the total number of regulatory restrictions inventoried by state 23  
agencies, the percentage by which state agencies have reduced 24  
those regulatory restrictions. The report also shall provide 25  
recommendations for statutory changes, where appropriate, 26  
brought to the attention of the joint committee as contributing 27  
to the adoption of regulatory restrictions. The report shall be 28  
submitted to the members of the joint committee. 29

The joint committee shall publish the report on its web 30  
site, and shall transmit copies of the report electronically to 31  
the general assembly. 32

**Sec. 101.353.** The joint committee on agency rule review, 33  
in consultation with legislative information systems, shall 34  
create and maintain a system that state agencies shall use to 35  
enter regulatory restriction data, create required inventories, 36  
and transmit copies of inventories, reports, and any other 37  
documents to the joint committee and the general assembly under 38  
sections 121.93, 121.931, and 121.933 of the Revised Code, and 39  
that will assist the joint committee in aggregating reports and 40  
performing other prescribed duties under sections 101.352, 41  
121.93, 121.931, 121.932, and 121.933 of the Revised Code. 42

The joint committee, in consultation with legislative 43  
information systems, also shall develop a web site to convey 44  
information regarding the reduction of regulatory restrictions 45  
by state agencies to the public. 46

**Sec. 106.021.** If, upon reviewing a proposed rule or 47

revised proposed rule, the joint committee on agency rule review 48  
makes any of the following findings with regard to the proposed 49  
rule or revised proposed rule, the joint committee may recommend 50  
to the senate and house of representatives the adoption of a 51  
concurrent resolution to invalidate the proposed rule or revised 52  
proposed rule or a part thereof: 53

(A) The proposed rule or revised proposed rule exceeds the 54  
scope of its statutory authority. 55

(B) The proposed rule or revised proposed rule conflicts 56  
with the legislative intent of the statute under which it was 57  
proposed. 58

(C) The proposed rule or revised proposed rule conflicts 59  
with another proposed or existing rule. 60

(D) The proposed rule or revised proposed rule 61  
incorporates a text or other material by reference and either 62  
the agency has failed to file the text or other material 63  
incorporated by reference as required by section 121.73 of the 64  
Revised Code or the incorporation by reference fails to meet the 65  
standards stated in sections 121.72, 121.75, and 121.76 of the 66  
Revised Code. 67

(E) The agency has failed to prepare a complete and 68  
accurate rule summary and fiscal analysis of the proposed rule 69  
or revised proposed rule as required by section 127.18 of the 70  
Revised Code. 71

(F) The agency has failed to demonstrate through the 72  
business impact analysis, recommendations from the common sense 73  
initiative office, and the memorandum of response that the 74  
regulatory intent of the proposed rule or revised proposed rule 75  
justifies its adverse impact on businesses in this state. 76

(G) The agency has failed to justify the proposed 77  
amendment or rescission of a rule containing a regulatory 78  
restriction. 79

**Sec. 106.03.** Prior to the review date of an existing rule, 80  
the agency that adopted the rule shall do both of the following: 81

(A) Review the rule to determine all of the following: 82

(1) Whether the rule should be continued without 83  
amendment, be amended, or be rescinded, taking into 84  
consideration the purpose, scope, and intent of the statute 85  
under which the rule was adopted; 86

(2) Whether the rule needs amendment or rescission to give 87  
more flexibility at the local level; 88

(3) Whether the rule needs amendment or rescission to 89  
eliminate unnecessary paperwork; 90

(4) Whether the rule incorporates a text or other material 91  
by reference and, if so, whether the text or other material 92  
incorporated by reference is deposited or displayed as required 93  
by section 121.74 of the Revised Code and whether the 94  
incorporation by reference meets the standards stated in 95  
sections 121.72, 121.75, and 121.76 of the Revised Code; 96

(5) Whether the rule duplicates, overlaps with, or 97  
conflicts with other rules; 98

(6) Whether the rule has an adverse impact on businesses, 99  
as determined under section 107.52 of the Revised Code; 100

(7) Whether the rule contains words or phrases having 101  
meanings that in contemporary usage are understood as being 102  
derogatory or offensive;~~and~~ 103

(8) Whether the rule requires liability insurance, a bond, 104  
or any other financial responsibility instrument as a condition 105  
of licensure; and 106

(9) Whether a rule that contains one or more regulatory 107  
restrictions should be amended or rescinded to reduce regulatory 108  
restrictions. 109

In making its review, the agency shall consider the 110  
continued need for the rule, the nature of any complaints or 111  
comments received concerning the rule, and any relevant factors 112  
that have changed in the subject matter area affected by the 113  
rule. 114

(B) On the basis of its review of the existing rule, the 115  
agency shall determine whether the existing rule needs to be 116  
amended or rescinded. 117

(1) If the existing rule needs to be amended or rescinded, 118  
the agency, on or before the review date of the existing rule, 119  
shall commence the process of amending or rescinding the 120  
existing rule in accordance with its review of the rule. 121

(2) If the existing rule does not need to be amended or 122  
rescinded, proceedings shall be had under section 106.031 of the 123  
Revised Code. 124

Upon the request of the agency that adopted an existing 125  
rule, the joint committee on agency rule review may extend the 126  
review date of the rule to a date that is not later than one 127  
hundred eighty days after the review date assigned to the rule 128  
by the agency. Not more than two such extensions may be allowed. 129

Sec. 121.031. The administrative department head of an 130  
administrative department created under section 121.02 of the 131  
Revised Code, or an administrative department head appointed 132

under section 121.03 of the Revised Code may direct an otherwise 133  
independent official or state agency that is organized under the 134  
administrative department or administrative department head as 135  
necessary to achieve reductions in regulatory restrictions in 136  
rules in compliance with sections 121.93, 121.931, 121.932, and 137  
121.933 of the Revised Code. 138

**Sec. 121.93.** As used in sections 121.93, 121.931, 121.932, 139  
and 121.933 of the Revised Code, "state agency" means an 140  
administrative department created under section 121.02 of the 141  
Revised Code or an administrative department head appointed 142  
under section 121.03 of the Revised Code, and state agencies 143  
organized under an administrative department or administrative 144  
department head. "State agency" also includes the offices of the 145  
attorney general, secretary of state, auditor of state, and 146  
treasurer of state, as well as the state lottery commission, 147  
Ohio casino control commission, state racing commission, and the 148  
public utilities commission of Ohio. Rules adopted by an 149  
otherwise independent official or entity organized under a state 150  
agency shall be attributed to the agency under which the 151  
official or entity is organized for the purposes of sections 152  
121.93, 121.931, 121.932, and 121.933 of the Revised Code. 153

Not later than December 31, 2019, a state agency shall 154  
review its existing rules to identify rules having one or more 155  
regulatory restrictions that require or prohibit an action and 156  
prepare an inventory of the regulatory restrictions in its 157  
existing rules. Examples of words suggesting that a rule 158  
incorporates a regulatory restriction include "shall," "must," 159  
"require," "shall not," "may not," and "prohibit." A rule of 160  
law, phrased in indicative mood, also may constitute a 161  
regulatory restriction. This inventory is the "base inventory." 162

<u>In the inventory, the state agency shall indicate all of</u>	163
<u>the following:</u>	164
<u>(A) The regulatory restriction;</u>	165
<u>(B) The rule number of the rule in which the regulatory</u>	166
<u>restriction appears;</u>	167
<u>(C) The statute under which the regulatory restriction was</u>	168
<u>adopted;</u>	169
<u>(D) Whether removing the regulatory restriction would</u>	170
<u>require statutory change;</u>	171
<u>(E) Any other information the joint committee on agency</u>	172
<u>rule review considers necessary.</u>	173
<u>The state agency shall compute and state the total number</u>	174
<u>of regulatory restrictions indicated in the inventory.</u>	175
<u>The state agency shall post the inventory on its web site,</u>	176
<u>and shall electronically transmit a copy of the inventory to the</u>	177
<u>joint committee. The joint committee shall review the inventory,</u>	178
<u>and shall transmit the inventory electronically to the general</u>	179
<u>assembly after it has been reviewed.</u>	180
<u>The inventory requirement does not apply to an internal</u>	181
<u>management rule or any rule required to be adopted verbatim by</u>	182
<u>the controlling statute.</u>	183
<u><b>Sec. 121.931.</b> (A) (1) A state agency shall amend or rescind</u>	184
<u>rules identified in its inventory of regulatory restrictions as</u>	185
<u>necessary to reduce the total number of regulatory restrictions</u>	186
<u>by thirty per cent, according to the following schedule:</u>	187
<u>(a) A ten per cent reduction not later than December 31,</u>	188
<u>2020;</u>	189

(b) A twenty per cent reduction not later than December 190  
31, 2021; and 191

(c) The thirty per cent reduction not later than December 192  
31, 2022. 193

When a reduction of any percentage in regulatory 194  
restrictions, whether or not as specified in this section, has 195  
been achieved, the state agency may not adopt or maintain 196  
regulatory restrictions that would negate the reduction. 197

(2) If a specified percentage reduction has not been 198  
achieved according to the schedule, the state agency may not 199  
adopt a new regulatory restriction unless it simultaneously 200  
removes two or more other existing regulatory restrictions, 201  
until the specified thirty per cent reduction has been achieved. 202  
The state agency may not fulfill this requirement by merging two 203  
or more existing regulatory restrictions into a single surviving 204  
regulatory restriction. 205

(3) The state agency is encouraged to continue to reduce 206  
regulatory restrictions after the specified thirty per cent 207  
reduction has been achieved. 208

(B) Not later than March 15, 2021, and annually 209  
thereafter, the state agency shall prepare an historical report 210  
of its progress in reducing regulatory restrictions over the 211  
preceding year under divisions (A) (1) and (2) of this section. 212  
The state agency shall include a revised inventory of regulatory 213  
restrictions with the report. 214

In the revised inventory, in addition to the information 215  
required by section 121.93 of the Revised Code, the state agency 216  
shall compute the net reduction in regulatory restrictions by 217  
adding the number of regulatory restrictions carried forward 218

from the previous inventory to the number of regulatory 219  
restrictions added since the previous inventory, and then 220  
subtracting from the sum of the carried over and new regulatory 221  
restrictions the number of regulatory restrictions eliminated 222  
since the previous inventory. The state agency then shall 223  
subtract the net reduction from the number of regulatory 224  
restrictions in the base inventory, and divide the result by the 225  
number of regulatory restrictions in the base inventory to 226  
determine the percentage reduction in regulatory restrictions. 227

The state agency shall transmit the report electronically 228  
to the joint committee on agency rule review. The joint 229  
committee shall review the report, and shall transmit it 230  
electronically to the general assembly. The state agency shall 231  
continue preparing and transmitting a report until it has 232  
reported that it has achieved the specified thirty per cent 233  
reduction in regulatory restrictions. 234

**Sec. 121.932.** If a state agency fails to reduce regulatory 235  
restrictions by a required percentage within one hundred twenty 236  
days after a reduction deadline in section 121.931 of the 237  
Revised Code, the joint committee on agency rule review shall 238  
afford the state agency an opportunity to appear before the 239  
joint committee to show cause why the agency has not achieved 240  
the required reduction in regulatory restrictions. If the state 241  
agency appears before the joint committee at the time scheduled 242  
for the state agency to show cause, and the joint committee, by 243  
vote of a majority of its members present in a meeting at which 244  
a quorum of its members are present, determines that the state 245  
agency has shown cause, the joint committee shall provide to the 246  
general assembly recommendations of statutory changes as 247  
determined necessary to accommodate the state agency's inability 248  
to achieve a required reduction in regulatory restrictions. 249

Sec. 121.933. Effective January 1, 2023, the state is 250  
limited in the number of regulatory restrictions that may be 251  
effective at any one time to a number that is seventy per cent 252  
of the aggregate total of regulatory restrictions identified by 253  
all state agencies in the base inventories prepared under 254  
section 121.93 of the Revised Code, as determined by the joint 255  
committee on agency rule review. A state agency shall contact 256  
the joint committee before submitting a proposed rule containing 257  
a regulatory restriction, and the joint committee shall 258  
determine whether adopting the regulatory restriction would 259  
cause the state to exceed the number of regulatory restrictions 260  
permitted under this section. A state agency may not adopt a 261  
rule if by adopting the rule the state agency would cause the 262  
number of regulatory restrictions to exceed the state limit as 263  
determined by the joint committee. 264

**Section 2.** That existing sections 106.021 and 106.03 of 265  
the Revised Code are hereby repealed. 266