

As Passed by the Senate

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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

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>Sec. 121.931. (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