

As Passed by the House

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

Sub. S. B. No. 221

Senator Uecker

Cosponsors: Senators Huffman, Beagle, Sykes, Coley, LaRose, Balderson, Dolan, Hackett, Hoagland, Jordan, Kunze, Manning, McColley, Obhof, Oelslager, Peterson, Terhar Representatives Anielski, Becker, Blessing, Brenner, Butler, Carfagna, Dean, Faber, Gavarone, Green, Hambley, Henne, Hill, Hood, Koehler, Landis, Lanese, Lang, Patton, Perales, Reineke, Retherford, Rezabek, Riedel, Roegner, Romanchuk, Ryan, Scherer, Seitz, Stein, Wiggam, Young

A BILL

To amend sections 101.35, 103.05, 103.0511, 1
106.021, 106.03, 106.031, 107.52, 111.15, 2
119.03, 121.39, 121.71, 121.72, 121.73, 121.74, 3
121.75, 127.18, 145.09, 742.10, 1707.20, 4
3304.15, 3307.04, 3309.04, 3375.01, and 5505.04; 5
to amend, for the purpose of adopting a new 6
section number as indicated in parentheses, 7
section 127.18 (106.024); to enact sections 8
101.352, 101.353, 106.032, 121.93, 121.931, and 9
121.933; and to repeal section 121.76 of the 10
Revised Code to reform agency rule-making and 11
legislative review thereof. 12

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

Section 1. That sections 101.35, 103.05, 103.0511, 13
106.021, 106.03, 106.031, 107.52, 111.15, 119.03, 121.39, 14
121.71, 121.72, 121.73, 121.74, 121.75, 127.18, 145.09, 742.10, 15

1707.20, 3304.15, 3307.04, 3309.04, 3375.01, and 5505.04 be 16
amended, section 127.18 (106.024) of the Revised Code be amended 17
for the purpose of adopting a new section number as indicated in 18
parentheses, and sections 101.352, 101.353, 106.032, 121.93, 19
121.931, and 121.933 of the Revised Code be enacted to read as 20
follows: 21

Sec. 101.35. There is hereby created in the general 22
assembly the joint committee on agency rule review. The 23
committee shall consist of five members of the house of 24
representatives and five members of the senate. Within fifteen 25
days after the commencement of the first regular session of each 26
general assembly, the speaker of the house of representatives 27
shall appoint the members of the committee from the house of 28
representatives, and the president of the senate shall appoint 29
the members of the committee from the senate. Not more than 30
three of the members from each house shall be of the same 31
political party. In the first regular session of a general 32
assembly, the chairperson of the committee shall be appointed by 33
the speaker of the house from among the house members of the 34
committee, and the vice-chairperson shall be appointed by the 35
president of the senate from among the senate members of the 36
committee. In the second regular session of a general assembly, 37
the chairperson shall be appointed by the president of the 38
senate from among the senate members of the committee, and the 39
vice-chairperson shall be appointed by the speaker of the house 40
from among the house members of the committee. The chairperson, 41
vice-chairperson, and members of the committee shall serve until 42
their respective successors are appointed or until they are no 43
longer members of the general assembly. When a vacancy occurs 44
among the officers or members of the committee, it shall be 45
filled in the same manner as the original appointment. 46

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

The committee has the same powers as other standing or
select committees of the general assembly. Six members
constitute a quorum. The concurrence of six members is required
for the recommendation of a concurrent resolution invalidating a
proposed rule under section 106.021 of the Revised Code. The
concurrence of seven members is required for the recommendation
of a concurrent resolution invalidating an existing rule under
section 106.031 of the Revised Code.

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

The president or speaker shall inform the executive
director of the committee of a substitution. If the executive
director learns of a substitution sufficiently in advance of the
meeting of the committee the substitute is to attend, the
executive director shall publish notice of the substitution on

the internet, make reasonable effort to inform of the 77
substitution persons who are known to the executive director to 78
be interested in rules that are scheduled for review at the 79
meeting, and inform of the substitution persons who inquire of 80
the executive director concerning the meeting. 81

The committee may meet during periods in which the general 82
assembly has adjourned. 83

At meetings of the committee, the committee may request an 84
agency, as defined in section 106.01 of the Revised Code, to 85
provide information relative to the agency's implementation of 86
its statutory authority. 87

A member of the committee, and the executive director and 88
staff of the committee, are entitled in their official 89
capacities to attend, but not in their official capacities to 90
participate in, a public hearing conducted by an agency on a 91
proposed rule. 92

The executive director serves at the pleasure of the 93
president and speaker by mutual consensus. The executive 94
director may employ such technical, professional, and clerical 95
employees as are necessary to carry out the powers and 96
administrative duties of the committee. 97

Sec. 101.352. If the joint committee on agency rule review 98
becomes aware that an agency subject to its jurisdiction is 99
relying upon a principle of law or policy that, under section 100
121.93 of the Revised Code, should have been supplanted by its 101
restatement in a rule, the chairperson of the joint committee, 102
in the chairperson's sole discretion, may request the agency to 103
appear before the joint committee to address why, 104
notwithstanding section 121.93 of the Revised Code, it is so 105

relying. The request shall specify the time and place at which a 106
designee of the agency is to appear before the joint committee 107
to address, and to answer the joint committee's questions 108
concerning, the agency's reliance. The date set for the 109
appearance shall be not earlier than thirty days after the joint 110
committee transmits the request to the agency. The joint 111
committee shall transmit the request to the agency 112
electronically. The joint committee also shall publish the 113
request on its web site, as part of the relevant meeting agenda, 114
and shall indicate in conjunction with the published request 115
that any person is invited to appear before the joint committee 116
when the agency appears to offer and make comments to the joint 117
committee concerning the agency's reliance. 118

Upon receiving the request, the agency shall designate a 119
suitable agency officer or employee to appear on behalf of the 120
agency before the joint committee as directed in the request. 121
The agency electronically shall notify the joint committee of 122
the name, title, telephone number, and electronic mail address 123
of the officer or employee who has been designated to appear 124
before the joint committee in response to the request. 125

Upon appearing before the joint committee, the agency's 126
designee shall address why the agency is relying upon a 127
principle of law or policy that, notwithstanding section 121.93 128
of the Revised Code, has not been supplanted by its restatement 129
in a rule. The members of the joint committee may question the 130
agency's designee concerning the agency's reliance. Any person 131
may offer and make comments to the joint committee concerning 132
the agency's reliance. 133

After the appearance has concluded, the joint committee, 134
by vote of a majority of its members, in writing may recommend 135

to the agency that it supplant the principle of law or policy 136
that it is relying upon by its restatement in a rule. The joint 137
committee shall support its recommendation with a brief 138
rationale of why, under section 121.93 of the Revised Code, the 139
principle of law or policy should be supplanted by its 140
restatement in a rule. The joint committee shall transmit the 141
recommendation electronically to the agency. 142

After receiving the recommendation from the joint 143
committee, the agency shall commence the rule-making process as 144
soon as it is reasonably feasible to do so, but not later than 145
the date that is six months after the recommendation was 146
received. The principle of law or policy as it is restated in a 147
rule does not need to be wholly congruent with the supplanted 148
principle of law or policy. The agency lawfully may improve or 149
develop further the supplanted principle of law or policy as it 150
is restated in a rule. 151

The agency may continue to rely upon the principle of law 152
or policy, but only while it is complying with the preceding 153
paragraph. The agency may not rely upon the principle of law or 154
policy in advising with regard to or in determining the rights 155
or liabilities of a person if the agency fails to commence the 156
rule-making process by the deadline specified in the preceding 157
paragraph, or if, after commencing the rule-making process, the 158
agency neglects or abandons the rule-making process before it is 159
completed. 160

Sec. 101.353. If the joint committee on agency rule review 161
becomes aware, such as through its own inquiries or by receiving 162
complaints from interested parties or stakeholders, that an 163
agency subject to its jurisdiction is required expressly or 164
impliedly by a statute to adopt a rule but appears neither to 165

have done so nor to have commenced the rule-making process, the 166
chairperson of the joint committee, in the chairperson's sole 167
discretion, may request the agency to appear before the joint 168
committee to address its apparent dereliction. The request shall 169
specify the time and place at which a designee of the agency is 170
to appear before the joint committee to address, and answer the 171
joint committee's questions concerning, the agency's apparent 172
dereliction. The request shall identify the statute that 173
expressly or impliedly requires rule-making and that apparently 174
has not been complied with. The joint committee shall transmit 175
the request to the agency electronically. The joint committee 176
also shall publish the request on its web site, and shall 177
indicate in conjunction with the published request that any 178
person is invited to appear before the joint committee when the 179
agency appears to offer and make comments to the joint committee 180
concerning the agency's apparent dereliction. 181

Upon receiving the request, the agency shall designate a 182
suitable agency officer or employee to appear on behalf of the 183
agency before the joint committee as directed in the request. 184
The agency electronically shall notify the joint committee of 185
the name, title, telephone number, and electronic mail address 186
of the officer or employee who has been designated to appear 187
before the joint committee in response to the request. 188

Upon appearing before the joint committee, the agency's 189
designee shall address why the agency apparently has neither 190
adopted a rule nor commenced the rule-making process as 191
expressly or impliedly required by the statute. The members of 192
the joint committee may question the agency's designee 193
concerning the agency's apparent dereliction. Any person may 194
offer and make comments to the joint committee concerning the 195
agency's apparent dereliction. 196

After the appearance has concluded, the joint committee, 197
by vote of a majority of its members, in writing may advise the 198
agency to commence rule-making proceedings under the statute, as 199
soon as it is reasonably feasible for the agency to do so. The 200
joint committee shall transmit the advisory electronically to 201
the agency. The joint committee also shall publish the advisory 202
on its web site. 203

Sec. 103.05. (A) The director of the legislative service 204
commission shall be the codifier of the rules of the 205
administrative agencies of the state. When a rule is filed under 206
section 111.15, or 119.04, ~~4141.14, or 5703.14~~ of the Revised 207
Code, the director or the director's designee shall examine the 208
rule. If the rule is not numbered or if the numbering of the 209
rule is not in conformity with the system established by the 210
director, the director shall give the rule its proper number by 211
designating the proper number on the left hand margin of the 212
rule. The number shall be the official administrative code 213
number of the rule. Any number so assigned shall be published in 214
any publication of the administrative code. Rules of the 215
administrative code shall be cited and referred to by such 216
official numbers. 217

The legislative service commission shall, ~~pursuant to~~ 218
under section 111.15 of the Revised Code, adopt, amend, and 219
rescind any rules that are necessary to provide a uniform 220
administrative code; to provide standards for use by the 221
director in determining whether to include in the administrative 222
code the full text of, or a reference to, any rule filed with 223
the commission; to permit the director to discharge the 224
director's duties and exercise the director's powers as 225
described in this section; and to permit the director to 226
discharge the director's duties and exercise the director's 227

powers with respect to establishing and maintaining, and 228
enhancing and improving, the electronic rule-filing system under 229
section 103.0511 of the Revised Code. 230

When the commission adopts rules to provide standards for 231
use by the director in determining whether to include the full 232
text of, or a reference to, a rule in the administrative code, 233
it shall require the director to consider all of the following: 234

(1) Whether the rule applies uniformly to all citizens of 235
the state; 236

(2) Whether the rule applies uniformly to all political 237
subdivisions of the state; 238

(3) Whether the rule affects the health, welfare, and 239
safety of the citizens of the state; 240

(4) Whether the rule applies only to the internal affairs 241
of the agency adopting the rule; 242

(5) The number of persons affected by the rule; 243

(6) Whether the rule affects the statutory or 244
constitutional rights of any person. 245

The director or the director's designee shall accept any 246
rule that is filed under section 111.15~~7~~, or 119.04, ~~4141.14, or~~ 247
~~5703.14~~ of the Revised Code. If the director or the director's 248
designee accepts a rule that is not in compliance with the rules 249
of the commission, the director shall give notice of the 250
noncompliance in electronic form to the agency that filed the 251
rule within thirty days after the date on which the rule is 252
filed. The notice shall indicate why the rule does not comply 253
with the rules of the commission and how the rule can be brought 254
into compliance. The failure of the director to give an agency 255

notice within the thirty-day period ~~shall~~ presumptively 256
~~establish~~ establishes that the rule complies with the rules of 257
the commission. 258

(B) Any person may publish an acceptable code. The 259
director shall approve as acceptable any person's publication of 260
the code conforming to the requirements of this division. 261

An Ohio administrative code approved as acceptable by the 262
director shall: 263

(1) Contain a compilation of the full text of, or a 264
reference to, each rule filed under ~~sections~~ section 111.15, or 265
119.04, ~~4141.14~~, and ~~5703.14~~ of the Revised Code; 266

(2) Presumptively establish the rules of all agencies 267
adopting rules under section 111.15, ~~4141.14~~, ~~5703.14~~, or 268
Chapter 119. of the Revised Code that are in effect on the day 269
of its initial publication; 270

(3) Contain the full text of, or a reference to, each rule 271
adopted after its initial publication and be updated at least 272
quarterly; 273

(4) Contain an index of the rules and references to rules 274
that are included in the code and each supplement using terms 275
easily understood by the general public; 276

(5) Be published in electronic or print format following, 277
to the extent possible, the subject matter arrangement of the 278
Revised Code; 279

(6) Be numbered according to the numbering system devised 280
by the director. 281

(C) The director may prepare and publish the code, or 282
contract with any person under this division to prepare and 283

publish the code. Any code published under this division shall 284
include all of the requirements of division (B) of this section. 285
In addition, the director shall furnish any code or supplement 286
published under this division to any person who requests the 287
code or supplement upon payment of a charge established by the 288
director, not to exceed the cost of preparation and publication. 289

Upon the request of the director of the legislative 290
service commission under this division, the director of 291
administrative services, in accordance with the competitive 292
selection procedure of Chapter 125. of the Revised Code, shall 293
let a contract for the compilation, preparation, and printing or 294
publication of the administrative code and supplements. 295

Sec. 103.0511. The director of the legislative service 296
commission shall establish and maintain, and enhance and 297
improve, an electronic rule-filing system connecting: 298

(A) The legislative service commission, the joint 299
committee on agency rule review, and the secretary of state; 300

(B) The governor, the senate and house of representatives, 301
and the clerks of the senate and house of representatives; 302

(C) Each agency that files rules and other rule-making and 303
rule-related documents with the legislative service commission, 304
the joint committee on agency rule review, the department of 305
aging, the governor, the secretary of state, the general 306
assembly, or a committee of the senate or house of 307
representatives under section 106.02, 106.022, 106.024, 106.031, 308
107.54, 111.15, 117.20, 119.03, 119.0311, 119.04, 121.39, 309
121.82, ~~127.18~~, 173.01, or 5117.02 of the Revised Code or any 310
other statute; 311

(D) The several publishers of the Administrative Code; 312

(E) The common sense initiative office; and	313
(F) Any other person or governmental officer or entity	314
whose inclusion in the system is required for the system to be a	315
complete electronic rule-filing system.	316
The electronic rule-filing system is to enable rules and	317
rule-making and rule-related documents to be filed, and official	318
responses to these filings to be made, exclusively by electronic	319
means.	320
Sec. 106.021. If, upon reviewing a proposed rule or	321
revised proposed rule, the joint committee on agency rule review	322
makes any of the following findings with regard to the proposed	323
rule or revised proposed rule, the joint committee may recommend	324
to the senate and house of representatives the adoption of a	325
concurrent resolution to invalidate the proposed rule or revised	326
proposed rule or a part thereof:	327
(A) The proposed rule or revised proposed rule exceeds the	328
scope of its statutory authority.	329
(B) The proposed rule or revised proposed rule conflicts	330
with the legislative intent of the statute under which it was	331
proposed.	332
(C) The proposed rule or revised proposed rule conflicts	333
with another proposed or existing rule.	334
(D) The proposed rule or revised proposed rule	335
incorporates a text or other material by reference and either	336
the agency has failed to file the text or other material	337
incorporated by reference as required by section 121.73 of the	338
Revised Code or the incorporation by reference fails to meet the	339
standards stated in sections 121.72, 121.75, and 121.76 of the	340
Revised Code:	341

(1) The accompanying citation is not such as reasonably 342
would enable a reasonable person to whom the proposed rule or 343
revised proposed rule applies readily and without charge to find 344
and inspect the incorporated text or other material; 345

(2) The accompanying citation is not such as reasonably 346
would enable the joint committee readily and without charge to 347
find and inspect the incorporated text or other material, and 348
the agency did not file or otherwise make the incorporated text 349
or other material available without charge to the joint 350
committee; or 351

(3) The agency has treated the proposed rule or revised 352
proposed rule in whole or in part as exempt from sections 121.71 353
to 121.74 of the Revised Code on grounds the incorporated text 354
or other material has one or more of the characteristics 355
described in division (B) of section 121.75 of the Revised Code, 356
but the incorporated text or other material actually does not 357
have any of those characteristics. 358

(E) The agency has failed to prepare a complete and 359
accurate rule summary and fiscal analysis of the proposed rule 360
or revised proposed rule as required by section ~~127.18~~106.024 361
of the Revised Code. 362

(F) The agency has failed to demonstrate through the 363
business impact analysis, recommendations from the common sense 364
initiative office, and the memorandum of response that the 365
regulatory intent of the proposed rule or revised proposed rule 366
justifies its adverse impact on businesses in this state. 367

Sec. ~~127.18~~ 106.024. (A) As used in this section: 368

(1) "Agency" has the meaning defined in section 106.01 of 369
the Revised Code. 370

(2) "Rule" includes the adoption, amendment, or rescission of a rule. 371
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(3) "Proposed rule" means the original version of a proposed rule, and each revised version of the same proposed rule, that is filed with the joint committee on agency rule review under division (D) of section 111.15 or division (C) of section 119.03 of the Revised Code. 373
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(B) An agency shall prepare, on the form designed by the joint committee on agency rule review, a complete and accurate rule summary and fiscal analysis of each proposed rule that it files under division (D) of section 111.15 or division (C) of section 119.03 of the Revised Code. 378
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The joint committee on agency rule review shall design a form for the rule summary and fiscal analysis. The form may solicit information such as the following information: 383
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(1) The name, address, and telephone number of the agency, and the name, telephone number, and electronic mail address of an individual or office within the agency designated by that agency to be responsible for coordinating and making available information in the possession of the agency regarding the proposed rule; 386
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(2) The Ohio Administrative Code rule number of the proposed rule; 392
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(3) A brief summary of, and the legal basis for, the proposed rule, including citations identifying the statute that prescribes the procedure in accordance with which the agency is required to adopt the proposed rule, the statute that authorizes the agency to adopt the proposed rule, and the statute that the agency intends to amplify or implement by adopting the proposed 394
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rule;	400
(4) An estimate, in dollars, of the amount by which the proposed rule would increase or decrease revenues or expenditures during the current biennium;	401 402 403
(5) A citation identifying the appropriation that authorizes each expenditure that would be necessitated by the proposed rule;	404 405 406
(6) A summary of the estimated cost of compliance with the rule to all directly affected persons;	407 408
(7) The reasons why the rule is being proposed;	409
(8) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations, an estimate in dollars of the cost of compliance with the rule, or, if dollar amounts cannot be determined, a written explanation of why it was not possible to ascertain dollar amounts;	410 411 412 413 414
(9) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations and is the result of a federal requirement, a clear explanation that the proposed state rule does not exceed the scope and intent of the requirement, or, if the state rule does exceed the minimum necessary federal requirement, a justification of the excess cost, and an estimate of the costs, including those costs for local governments, exceeding the federal requirement;	415 416 417 418 419 420 421 422
(10) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations, a comprehensive cost estimate that includes the procedure and method of calculating the costs of compliance and identifies major cost categories including personnel costs, new equipment or other capital costs, operating costs, and indirect central service	423 424 425 426 427 428

costs related to the rule. The fiscal analysis shall also 429
include a written explanation of the agency's and the affected 430
local government's ability to pay for the new requirements and a 431
statement of any impact the rule will have on economic 432
development. 433

(11) If the rule incorporates a text or other material by 434
reference, and the agency claims the incorporation by reference 435
is exempt from compliance with sections 121.71 to 121.74 of the 436
Revised Code ~~because the text or other material is generally~~ 437
~~available to persons who reasonably can be expected to be~~ 438
~~affected by the rule, an explanation of how the text or other~~ 439
~~material is generally available to those persons;~~ 440

~~(12) If the rule incorporates a text or other material by~~ 441
~~reference, and it was infeasible for the agency to file the text~~ 442
~~or other material electronically, an explanation of why filing~~ 443
~~the text or other material electronically was infeasible;~~ 444

~~(13) If the rule is being rescinded and incorporates a~~ 445
~~text or other material by reference, and it was infeasible for~~ 446
~~the agency to file the text or other material, an explanation of~~ 447
~~why filing the text or other material was infeasible on grounds~~ 448
~~the incorporated text or other material has one or more of the~~ 449
~~characteristics described in division (B) of section 121.75 of~~ 450
~~the Revised Code, an explanation of how the incorporated text or~~ 451
~~other material is exempted under that division;~~ 452

(12) If the rule imposes a fee, an explanation of how the 453
fee directly relates to the cost actually incurred by the agency 454
in performing the function for which the fee is charged. 455

The rule summary and fiscal analysis form, instead of or 456
in addition to the foregoing, may solicit any other information 457

the joint committee on agency rule review considers necessary to 458
make the proposed rule or the fiscal effect of the proposed rule 459
fully understandable. 460

(C) The agency shall file the rule summary and fiscal 461
analysis in electronic form along with the proposed rule that it 462
files under division (D) of section 111.15 or divisions (B) and 463
(C) of section 119.03 of the Revised Code. The joint committee 464
on agency rule review shall not accept any proposed rule for 465
filing unless a copy of the rule summary and fiscal analysis of 466
the proposed rule, completely and accurately prepared, is filed 467
along with the proposed rule. 468

(D) The joint committee on agency rule review shall review 469
the fiscal effect of each proposed rule that is filed under 470
division (D) of section 111.15 or division (C) of section 119.03 471
of the Revised Code. 472

Sec. 106.03. Prior to the review date of an existing rule, 473
the agency that adopted the rule shall do both of the following: 474

(A) Review the rule to determine all of the following: 475

(1) Whether the rule should be continued without 476
amendment, be amended, or be rescinded, taking into 477
consideration the purpose, scope, and intent of the statute 478
under which the rule was adopted; 479

(2) Whether the rule needs amendment or rescission to give 480
more flexibility at the local level; 481

(3) Whether the rule needs amendment or rescission to 482
eliminate unnecessary paperwork; 483

(4) Whether the rule incorporates a text or other material 484
by reference and, if so, ~~whether the text or other material~~ 485

~~incorporated by reference is deposited or displayed as required~~ 486
~~by section 121.74 of the Revised Code and whether the~~ 487
~~incorporation by reference meets the standards stated in~~ 488
~~sections 121.72, 121.75, and 121.76 of the Revised Code; :~~ 489

(a) Whether the citation accompanying the incorporation by 490
reference is such as reasonably would enable a reasonable person 491
to whom the rule applies readily and without charge to find and 492
inspect the incorporated text or other material; 493

(b) Whether the citation accompanying the incorporation by 494
reference is such as reasonably would enable the joint committee 495
on agency rule review readily and without charge to find and 496
inspect the incorporated text or other material; and 497

(c) If the rule has been exempted in whole or in part from 498
sections 121.71 to 121.74 of the Revised Code on grounds the 499
incorporated text or other material has one or more of the 500
characteristics described in division (B) of section 121.75 of 501
the Revised Code, whether the incorporated text or other 502
material actually has any of those characteristics. 503

(5) Whether the rule duplicates, overlaps with, or 504
conflicts with other rules; 505

(6) Whether the rule has an adverse impact on businesses, 506
as determined under section 107.52 of the Revised Code; 507

(7) Whether the rule contains words or phrases having 508
meanings that in contemporary usage are understood as being 509
derogatory or offensive; and 510

(8) Whether the rule requires liability insurance, a bond, 511
or any other financial responsibility instrument as a condition 512
of licensure. 513

In making its review, the agency shall consider the 514
continued need for the rule, the nature of any complaints or 515
comments received concerning the rule, and any relevant factors 516
that have changed in the subject matter area affected by the 517
rule. 518

(B) On the basis of its review of the existing rule, the 519
agency shall determine whether the existing rule needs to be 520
amended or rescinded. 521

(1) If the existing rule needs to be amended or rescinded, 522
the agency, on or before the review date of the existing rule, 523
shall commence the process of amending or rescinding the 524
existing rule in accordance with its review of the rule. 525

(2) If the existing rule does not need to be amended or 526
rescinded, proceedings shall be had under section 106.031 of the 527
Revised Code. 528

Upon the request of the agency that adopted an existing 529
rule, the joint committee on agency rule review may extend the 530
review date of the rule to a date that is not later than one 531
hundred eighty days after the review date assigned to the rule 532
by the agency. Not more than two such extensions may be allowed. 533

Sec. 106.031. If an agency, on the basis of its review of 534
a rule under section 106.03 of the Revised Code, determines that 535
the rule does not need to be amended or rescinded, proceedings 536
shall be had as follows: 537

(A) (1) If, considering only the standard of review 538
specified in division (A) (6) of section 106.03 of the Revised 539
Code, the rule has an adverse impact on businesses, the agency 540
shall prepare a business impact analysis that describes its 541
review of the rule under that division and that explains why the 542

regulatory intent of the rule justifies its adverse impact on 543
businesses. If the rule does not have an adverse impact on 544
businesses, the agency may proceed under division (B) of this 545
section. 546

(2) The agency shall transmit a copy of the full text of 547
the rule and the business impact analysis electronically to the 548
common sense initiative office. The office shall make the rule 549
and analysis available to the public on its web site under 550
section 107.62 of the Revised Code. 551

(3) The agency shall consider any recommendations made by 552
the office. 553

(4) Not earlier than the sixteenth business day after 554
transmitting the rule and analysis to the office, the agency 555
shall either (a) proceed under divisions (A) (5) and (B) of this 556
section or (b) commence, under division (B) (1) of section 106.03 557
of the Revised Code, the process of rescinding the rule or of 558
amending the rule to incorporate into the rule features the 559
recommendations suggest will eliminate or reduce the adverse 560
impact the rule has on businesses. If the agency determines to 561
amend or rescind the rule, the agency is not subject to the time 562
limit specified in division (B) (1) of section 106.03 of the 563
Revised Code. 564

(5) If the agency receives recommendations from the 565
office, and determines not to amend or rescind the rule, the 566
agency shall prepare a memorandum of response that explains why 567
the rule is not being rescinded or why the recommendations are 568
not being incorporated into the rule. 569

(B) The agency shall assign a new review date to the rule. 570
The review date assigned shall be not later than five years 571

after the immediately preceding review date pertaining to the 572
rule. If the agency assigns a review date that exceeds the five- 573
year maximum, the review date is five years after the 574
immediately preceding review date. The immediately preceding 575
review date includes the date of the review of a rule under 576
section 106.032 of the Revised Code. 577

(C) (1) The agency shall file all the following, in 578
electronic form, with the joint committee on agency rule review, 579
the secretary of state, and the director of the legislative 580
service commission: a copy of the rule specifying its new review 581
date, a complete and accurate rule summary and fiscal analysis, 582
and, if relevant, a business impact analysis of the rule, any 583
recommendations received from the common sense initiative 584
office, and any memorandum of response. 585

(2) Subject to section 106.05 of the Revised Code, the 586
joint committee does not have jurisdiction to review, and shall 587
reject, the filing of a rule under division (C) (1) of this 588
section if, at any time while the rule is in its possession, it 589
discovers that the rule has an adverse impact on businesses and 590
the agency has not complied with division (A) of this section. 591
The joint committee shall electronically return a rule that is 592
rejected to the agency, together with any documents that were 593
part of the filing. Such a rejection does not preclude the 594
agency from refileing the rule under division (C) (1) of this 595
section after complying with division (A) of this section. When 596
the filing of a rule is rejected under this division, it is as 597
if the filing had not been made. 598

(D) The joint committee shall publish notice of the 599
agency's determination not to amend or rescind the rule in the 600
register of Ohio for four consecutive weeks after the rule is 601

filed under division (C) of this section. 602

(E) During the ninety-day period after a rule is filed 603
under division (C) of this section, but after the four-week 604
notice period required by division (D) of this section has 605
ended, the joint committee may recommend to the senate and house 606
of representatives the adoption of a concurrent resolution 607
invalidating the rule if the joint committee finds any of the 608
following: 609

(1) The agency improperly applied the standards in 610
division (A) of section 106.03 of the Revised Code in reviewing 611
the rule and in determining that the rule did not need amendment 612
or rescission. 613

(2) The rule has an adverse impact on businesses, and the 614
agency has failed to demonstrate through a business impact 615
analysis, recommendations from the common sense initiative 616
office, and a memorandum of response that the regulatory intent 617
of the rule justifies its adverse impact on businesses. 618

(3) If the rule incorporates a text or other material by 619
~~reference, the agency failed to file, or to deposit or display,~~ 620
~~the text or other material incorporated by reference as required~~ 621
~~by section 121.73 or 121.74 of the Revised Code or the~~ 622
~~incorporation by reference fails to meet the standards stated in~~ 623
~~sections 121.72, 121.75, and 121.76 of the Revised Code~~ any of 624
the following applies: 625

(a) The citation accompanying the incorporation by 626
reference is not such as reasonably would enable a reasonable 627
person to whom the rule applies readily and without charge to 628
find and inspect the incorporated text or other material; 629

(b) The citation accompanying the incorporation by 630

reference is not such as reasonably would enable the joint 631
committee readily and without charge to find and inspect the 632
incorporated text or other material; or 633

(c) The rule has been exempted in whole or in part from 634
sections 121.71 to 121.74 of the Revised Code on grounds the 635
incorporated text or other material has one or more of the 636
characteristics described in division (B) of section 121.75 of 637
the Revised Code, but the incorporated text or other material 638
actually does not have any of those characteristics. 639

If the agency fails to comply with section 106.03 or 640
106.031 of the Revised Code, the joint committee shall afford 641
the agency an opportunity to appear before the joint committee 642
to show cause why the agency has not complied with either or 643
both of those sections. If the agency appears before the joint 644
committee at the time scheduled for the agency to show cause, 645
and fails to do so, the joint committee, by vote of a majority 646
of its members present, may recommend the adoption of a 647
concurrent resolution invalidating the rule for the agency's 648
failure to show cause. Or if the agency fails to appear before 649
the joint committee at the time scheduled for the agency to show 650
cause, the joint committee, by vote of a majority of its members 651
present, may recommend adoption of a concurrent resolution 652
invalidating the rule for the agency's default. 653

When the joint committee recommends that a rule be 654
invalidated, the recommendation does not suspend operation of 655
the rule, and the rule remains operational pending action by the 656
senate and house of representatives on the concurrent resolution 657
embodying the recommendation. If the senate and house of 658
representatives adopt the concurrent resolution, the rule is 659
invalid. If, however, the senate and house of representatives do 660

not adopt the resolution, the rule continues in effect, and 661
shall next be reviewed according to the new review date assigned 662
to the rule. 663

Sec. 106.032. If the chairperson of the joint committee on 664
agency rule review becomes aware that an existing rule has had 665
or is having an unintended or unexpected effect on businesses 666
that is not reasonably within the express or implied scope of 667
the statute under which the existing rule purportedly was 668
adopted, the chairperson may move that the joint committee order 669
the agency that is administering the existing rule to submit the 670
existing rule for review under section 106.031 of the Revised 671
Code, the same as if the agency had made a determination with 672
regard to the existing rule under division (B)(2) of section 673
106.03 of the Revised Code. The joint committee may adopt the 674
motion by vote of a majority of its members. The joint committee 675
shall not adopt a motion under this paragraph for a rule if the 676
joint committee previously has adopted a motion under this 677
paragraph for the same rule within the immediately preceding 678
five-year period. 679

The joint committee shall prepare the order in writing, 680
and shall transmit the order electronically to the agency. The 681
joint committee also shall transmit a copy of the order 682
electronically to the director of the legislative service 683
commission and to the common sense initiative office. The joint 684
committee shall indicate in the order the date on which the 685
order is transmitted. The director shall publish the order in 686
the register of Ohio. 687

Upon receiving the order, the agency shall comply with the 688
order as soon as reasonably possible, but shall commence 689
compliance with the order not later than thirty days after the 690

date on which the order was transmitted. 691

When an agency complies with the order, proceedings are to 692
be had with regard to the existing rule under section 106.031 of 693
the Revised Code, the same as if the agency had made a 694
determination with regard to the existing rule under division 695
(B) (2) of section 106.03 of the Revised Code. In addition to the 696
standards of review stated in division (E) of section 106.031 of 697
the Revised Code, the joint committee may recommend to the 698
senate and house of representatives the adoption of a concurrent 699
resolution invalidating the existing rule if the joint committee 700
finds that the existing rule has an unintended or unexpected 701
effect on businesses that is not reasonably within the express 702
or implied scope of the statute under which the agency 703
purportedly adopted the existing rule. 704

Sec. 107.52. A draft or existing rule that affects 705
businesses has an adverse impact on businesses if a provision of 706
the draft or existing rule that applies to businesses has any of 707
the following effects: 708

(A) It requires a license, permit, or any other prior 709
authorization to engage in or operate a line of business; 710

(B) It imposes a criminal penalty, a civil penalty, or 711
another sanction, or creates a cause of action, for failure to 712
comply with its terms; ~~or~~ 713

(C) It requires specific expenditures or the report of 714
information as a condition of compliance; or 715

(D) It would be likely to directly reduce the revenue or 716
increase the expenses of the lines of business to which it will 717
apply or applies. 718

Sec. 111.15. (A) As used in this section: 719

(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.

(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.

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

(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:

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

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

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

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

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

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

(2) A rule of an emergency nature necessary for the immediate preservation of the public peace, health, or safety shall state the reasons for the necessity. The emergency rule, in final form and in compliance with division (B) (3) of this

section, shall be filed in electronic form with the secretary of 778
state, the director of the legislative service commission, and 779
the joint committee on agency rule review. The emergency rule is 780
effective immediately upon completion of the latest filing, 781
except that if the agency in adopting the emergency rule 782
designates an effective date, or date and time of day, that is 783
later than the effective date and time provided for by division 784
(B) (2) of this section, the emergency rule if filed as required 785
by such division shall become effective at the later date, or 786
later date and time of day, designated by the agency. 787

An emergency rule becomes invalid at the end of the one 788
hundred twentieth day it is in effect. Prior to that date, the 789
agency may file the emergency rule as a nonemergency rule in 790
compliance with division (B) (1) of this section. The agency may 791
not refile the emergency rule in compliance with division (B) (2) 792
of this section so that, upon the emergency rule becoming 793
invalid under such division, the emergency rule will continue in 794
effect without interruption for another one hundred twenty-day 795
period. 796

(3) An agency shall file a rule under division (B) (1) or 797
(2) of this section in compliance with the following standards 798
and procedures: 799

(a) The rule shall be numbered in accordance with the 800
numbering system devised by the director for the Ohio 801
administrative code. 802

(b) The rule shall be prepared and submitted in compliance 803
with the rules of the legislative service commission. 804

(c) The rule shall clearly state the date on which it is 805
to be effective and the date on which it will expire, if known. 806

(d) Each rule that amends or rescinds another rule shall 807
clearly refer to the rule that is amended or rescinded. Each 808
amendment shall fully restate the rule as amended. 809

If the director of the legislative service commission or 810
the director's designee gives an agency notice pursuant to 811
section 103.05 of the Revised Code that a rule filed by the 812
agency is not in compliance with the rules of the legislative 813
service commission, the agency shall within thirty days after 814
receipt of the notice conform the rule to the rules of the 815
commission as directed in the notice. 816

(C) All rules filed pursuant to divisions (B) (1) (a) and 817
(2) of this section shall be recorded by the secretary of state 818
and the director under the title of the agency adopting the rule 819
and shall be numbered according to the numbering system devised 820
by the director. The secretary of state and the director shall 821
preserve the rules in an accessible manner. Each such rule shall 822
be a public record open to public inspection and may be 823
transmitted to any law publishing company that wishes to 824
reproduce it. 825

(D) At least sixty-five days before a board, commission, 826
department, division, or bureau of the government of the state 827
files a rule under division (B) (1) of this section, it shall 828
file the full text of the proposed rule in electronic form with 829
the joint committee on agency rule review, and the proposed rule 830
is subject to legislative review and invalidation under section 831
106.021 of the Revised Code. If a state board, commission, 832
department, division, or bureau makes a revision in a proposed 833
rule after it is filed with the joint committee, the state 834
board, commission, department, division, or bureau shall 835
promptly file the full text of the proposed rule in its revised 836

form in electronic form with the joint committee. A state board, 837
commission, department, division, or bureau shall also file the 838
rule summary and fiscal analysis prepared under section ~~127.18~~ 839
106.024 of the Revised Code in electronic form along with a 840
proposed rule, and along with a proposed rule in revised form, 841
that is filed under this division. If a proposed rule has an 842
adverse impact on businesses, the state board, commission, 843
department, division, or bureau also shall file the business 844
impact analysis, any recommendations received from the common 845
sense initiative office, and the associated memorandum of 846
response, if any, in electronic form along with the proposed 847
rule, or the proposed rule in revised form, that is filed under 848
this division. 849

A proposed rule that is subject to legislative review 850
under this division may not be adopted and filed in final form 851
under division (B)(1) of this section unless the proposed rule 852
has been filed with the joint committee on agency rule review 853
under this division and the time for the joint committee to 854
review the proposed rule has expired without recommendation of a 855
concurrent resolution to invalidate the proposed rule. 856

As used in this division, "commission" includes the public 857
utilities commission when adopting rules under a federal or 858
state statute. 859

This division does not apply to any of the following: 860

(1) A proposed rule of an emergency nature; 861

(2) A rule proposed under section 1121.05, 1121.06, 862
1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 863
4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised 864
Code; 865

(3) A rule proposed by an agency other than a board, 866
commission, department, division, or bureau of the government of 867
the state; 868

(4) A proposed internal management rule of a board, 869
commission, department, division, or bureau of the government of 870
the state; 871

(5) Any proposed rule that must be adopted verbatim by an 872
agency pursuant to federal law or rule, to become effective 873
within sixty days of adoption, in order to continue the 874
operation of a federally reimbursed program in this state, so 875
long as the proposed rule contains both of the following: 876

(a) A statement that it is proposed for the purpose of 877
complying with a federal law or rule; 878

(b) A citation to the federal law or rule that requires 879
verbatim compliance. 880

(6) An initial rule proposed by the director of health to 881
impose safety standards and quality-of-care standards with 882
respect to a health service specified in section 3702.11 of the 883
Revised Code, or an initial rule proposed by the director to 884
impose quality standards on a facility listed in division (A) (4) 885
of section 3702.30 of the Revised Code, if section 3702.12 of 886
the Revised Code requires that the rule be adopted under this 887
section; 888

(7) A rule of the state lottery commission pertaining to 889
instant game rules. 890

If a rule is exempt from legislative review under division 891
(D) (5) of this section, and if the federal law or rule pursuant 892
to which the rule was adopted expires, is repealed or rescinded, 893
or otherwise terminates, the rule is thereafter subject to 894

legislative review under division (D) of this section. 895

Whenever a state board, commission, department, division, 896
or bureau files a proposed rule or a proposed rule in revised 897
form under division (D) of this section, it shall also file the 898
full text of the same proposed rule or proposed rule in revised 899
form in electronic form with the secretary of state and the 900
director of the legislative service commission. A state board, 901
commission, department, division, or bureau shall file the rule 902
summary and fiscal analysis prepared under section ~~127.18~~ 903
106.024 of the Revised Code in electronic form along with a 904
proposed rule or proposed rule in revised form that is filed 905
with the secretary of state or the director of the legislative 906
service commission. 907

Sec. 119.03. In the adoption, amendment, or rescission of 908
any rule, an agency shall comply with the following procedure: 909

(A) Reasonable public notice shall be given in the 910
register of Ohio at least thirty days prior to the date set for 911
a hearing, in the form the agency determines. The agency shall 912
file copies of the public notice under division (B) of this 913
section. (The agency gives public notice in the register of Ohio 914
when the public notice is published in the register under that 915
division.) 916

The public notice shall include: 917

(1) A statement of the agency's intention to consider 918
adopting, amending, or rescinding a rule; 919

(2) A synopsis of the proposed rule, amendment, or rule to 920
be rescinded or a general statement of the subject matter to 921
which the proposed rule, amendment, or rescission relates; 922

(3) A statement of the reason or purpose for adopting, 923

amending, or rescinding the rule; 924

(4) The date, time, and place of a hearing on the proposed 925
action, which shall be not earlier than the thirty-first nor 926
later than the fortieth day after the proposed rule, amendment, 927
or rescission is filed under division (B) of this section. 928

In addition to public notice given in the register of 929
Ohio, the agency may give whatever other notice it reasonably 930
considers necessary to ensure notice constructively is given to 931
all persons who are subject to or affected by the proposed rule, 932
amendment, or rescission. 933

The agency shall provide a copy of the public notice 934
required under division (A) of this section to any person who 935
requests it and pays a reasonable fee, not to exceed the cost of 936
copying and mailing. 937

(B) The full text of the proposed rule, amendment, or rule 938
to be rescinded, accompanied by the public notice required under 939
division (A) of this section, shall be filed in electronic form 940
with the secretary of state and with the director of the 941
legislative service commission. (If in compliance with this 942
division an agency files more than one proposed rule, amendment, 943
or rescission at the same time, and has prepared a public notice 944
under division (A) of this section that applies to more than one 945
of the proposed rules, amendments, or rescissions, the agency 946
shall file only one notice with the secretary of state and with 947
the director for all of the proposed rules, amendments, or 948
rescissions to which the notice applies.) The proposed rule, 949
amendment, or rescission and public notice shall be filed as 950
required by this division at least sixty-five days prior to the 951
date on which the agency, in accordance with division (E) of 952
this section, issues an order adopting the proposed rule, 953

amendment, or rescission. 954

If the proposed rule, amendment, or rescission 955
incorporates a text or other material by reference, the agency 956
shall comply with sections 121.71 to ~~121.76~~121.75 of the 957
Revised Code. 958

The proposed rule, amendment, or rescission shall be 959
available for at least thirty days prior to the date of the 960
hearing at the office of the agency in printed or other legible 961
form without charge to any person affected by the proposal. 962
Failure to furnish such text to any person requesting it shall 963
not invalidate any action of the agency in connection therewith. 964

If the agency files a revision in the text of the proposed 965
rule, amendment, or rescission, it shall also promptly file the 966
full text of the proposed rule, amendment, or rescission in its 967
revised form in electronic form with the secretary of state and 968
with the director of the legislative service commission. 969

The agency shall file the rule summary and fiscal analysis 970
prepared under section ~~127.18~~106.024 of the Revised Code in 971
electronic form along with a proposed rule, amendment, or 972
rescission or proposed rule, amendment, or rescission in revised 973
form that is filed with the secretary of state or the director 974
of the legislative service commission. 975

The agency shall file the hearing report relating to a 976
proposed rule, amendment, or rescission in electronic form with 977
the secretary of state and the director of the legislative 978
service commission at the same time the agency files the hearing 979
report with the joint committee on agency rule review. 980

The director of the legislative service commission shall 981
publish in the register of Ohio the full text of the original 982

and each revised version of a proposed rule, amendment, or 983
rescission; the full text of a public notice; the full text of a 984
rule summary and fiscal analysis; and the full text of a hearing 985
report that is filed with the director under this division. 986

(C) When an agency files a proposed rule, amendment, or 987
rescission under division (B) of this section, it also shall 988
file in electronic form with the joint committee on agency rule 989
review the full text of the proposed rule, amendment, or rule to 990
be rescinded in the same form and the public notice required 991
under division (A) of this section. (If in compliance with this 992
division an agency files more than one proposed rule, amendment, 993
or rescission at the same time, and has given a public notice 994
under division (A) of this section that applies to more than one 995
of the proposed rules, amendments, or rescissions, the agency 996
shall file only one notice with the joint committee for all of 997
the proposed rules, amendments, or rescissions to which the 998
notice applies.) The proposed rule, amendment, or rescission is 999
subject to legislative review and invalidation under sections 1000
106.02, 106.021, and 106.022 of the Revised Code. If the agency 1001
makes a revision in a proposed rule, amendment, or rescission 1002
after it is filed with the joint committee, the agency promptly 1003
shall file the full text of the proposed rule, amendment, or 1004
rescission in its revised form in electronic form with the joint 1005
committee. 1006

An agency shall file the rule summary and fiscal analysis 1007
prepared under section ~~127.18~~106.024 of the Revised Code in 1008
electronic form along with a proposed rule, amendment, or 1009
rescission, and along with a proposed rule, amendment, or 1010
rescission in revised form, that is filed under this division. 1011

If a proposed rule, amendment, or rescission has an 1012

adverse impact on businesses, the agency also shall file the 1013
business impact analysis, any recommendations received from the 1014
common sense initiative office, and the agency's memorandum of 1015
response, if any, in electronic form along with the proposed 1016
rule, amendment, or rescission, or along with the proposed rule, 1017
amendment, or rescission in revised form, that is filed under 1018
this division. 1019

The agency shall file the hearing report in electronic 1020
form with the joint committee before the joint committee holds 1021
its public hearing on the proposed rule, amendment, or 1022
rescission. The filing of a hearing report does not constitute a 1023
revision of the proposed rule, amendment, or rescission to which 1024
the hearing report relates. 1025

If the proposed rule, amendment, or rescission requires 1026
liability insurance, a bond, or any other financial 1027
responsibility instrument as a condition of licensure, the 1028
agency shall conduct a diligent search to determine if the 1029
liability insurance, bond, or other financial responsibility 1030
instrument is readily available in the amounts required as a 1031
condition of licensure, and shall certify to the joint committee 1032
that the search was conducted. 1033

A proposed rule, amendment, or rescission that is subject 1034
to legislative review under this division may not be adopted 1035
under division (E) of this section or filed in final form under 1036
section 119.04 of the Revised Code unless the proposed rule, 1037
amendment, or rescission has been filed with the joint committee 1038
on agency rule review under this division and the time for 1039
legislative review of the proposed rule, amendment, or 1040
rescission has expired without adoption of a concurrent 1041
resolution to invalidate the proposed rule, amendment, or 1042

rescission. 1043

This division does not apply to: 1044

(1) An emergency rule, amendment, or rescission; 1045

(2) A proposed rule, amendment, or rescission that must be 1046
adopted verbatim by an agency pursuant to federal law or rule, 1047
to become effective within sixty days of adoption, in order to 1048
continue the operation of a federally reimbursed program in this 1049
state, so long as the proposed rule contains both of the 1050
following: 1051

(a) A statement that it is proposed for the purpose of 1052
complying with a federal law or rule; 1053

(b) A citation to the federal law or rule that requires 1054
verbatim compliance. 1055

If a rule or amendment is exempt from legislative review 1056
under division (C) (2) of this section, and if the federal law or 1057
rule pursuant to which the rule or amendment was adopted 1058
expires, is repealed or rescinded, or otherwise terminates, the 1059
rule or amendment, or its rescission, is thereafter subject to 1060
legislative review under division (C) of this section. 1061

(D) On the date and at the time and place designated in 1062
the notice, the agency shall conduct a public hearing at which 1063
any person affected by the proposed action of the agency may 1064
appear and be heard in person, by the person's attorney, or 1065
both, may present the person's position, arguments, or 1066
contentions, orally or in writing, offer and examine witnesses, 1067
and present evidence tending to show that the proposed rule, 1068
amendment, or rescission, if adopted or effectuated, will be 1069
unreasonable or unlawful. An agency may permit persons affected 1070
by the proposed rule, amendment, or rescission to present their 1071

positions, arguments, or contentions in writing, not only at the 1072
hearing, but also for a reasonable period before, after, or both 1073
before and after the hearing. A person who presents a position 1074
or arguments or contentions in writing before or after the 1075
hearing is not required to appear at the hearing. 1076

At the hearing, the testimony shall be recorded. Such 1077
record shall be made at the expense of the agency. The agency is 1078
required to transcribe a record that is not sight readable only 1079
if a person requests transcription of all or part of the record 1080
and agrees to reimburse the agency for the costs of the 1081
transcription. An agency may require the person to pay in 1082
advance all or part of the cost of the transcription. 1083

In any hearing under this section the agency may 1084
administer oaths or affirmations. 1085

The agency shall consider the positions, arguments, or 1086
contentions presented at, or before or after, the hearing. The 1087
agency shall prepare a hearing summary of the positions, 1088
arguments, or contentions, and of the issues raised by the 1089
positions, arguments, or contentions. The agency then shall 1090
prepare a hearing report explaining, with regard to each issue, 1091
how it is reflected in the rule, amendment, or rescission. If an 1092
issue is not reflected in the rule, amendment, or rescission, 1093
the hearing report shall explain why the issue is not reflected. 1094
The agency shall include the hearing summary in the hearing 1095
report as an appendix thereto. And, in the hearing report, the 1096
agency shall identify the proposed rule, amendment, or 1097
rescission to which the hearing report relates. 1098

(E) After divisions (A), (B), (C), and (D) of this section 1099
have been complied with, and when the time for legislative 1100
review under sections 106.02, 106.022, and 106.023 of the 1101

Revised Code has expired without adoption of a concurrent 1102
resolution to invalidate the proposed rule, amendment, or 1103
rescission, the agency may issue an order adopting the proposed 1104
rule or the proposed amendment or rescission of the rule, 1105
consistent with the synopsis or general statement included in 1106
the public notice. At that time the agency shall designate the 1107
effective date of the rule, amendment, or rescission, which 1108
shall not be earlier than the tenth day after the rule, 1109
amendment, or rescission has been filed in its final form as 1110
provided in section 119.04 of the Revised Code. 1111

(F) Prior to the effective date of a rule, amendment, or 1112
rescission, the agency shall make a reasonable effort to inform 1113
those affected by the rule, amendment, or rescission and to have 1114
available for distribution to those requesting it the full text 1115
of the rule as adopted or as amended. 1116

(G) If the governor, upon the request of an agency, 1117
determines that an emergency requires the immediate adoption, 1118
amendment, or rescission of a rule, the governor shall issue an 1119
order, the text of which shall be filed in electronic form with 1120
the agency, the secretary of state, the director of the 1121
legislative service commission, and the joint committee on 1122
agency rule review, that the procedure prescribed by this 1123
section with respect to the adoption, amendment, or rescission 1124
of a specified rule is suspended. The agency may then adopt 1125
immediately the emergency rule, amendment, or rescission and it 1126
becomes effective on the date the rule, amendment, or 1127
rescission, in final form and in compliance with division (A) (2) 1128
of section 119.04 of the Revised Code, is filed in electronic 1129
form with the secretary of state, the director of the 1130
legislative service commission, and the joint committee on 1131
agency rule review. The director shall publish the full text of 1132

the emergency rule, amendment, or rescission in the register of 1133
Ohio. 1134

The emergency rule, amendment, or rescission shall become 1135
invalid at the end of the one hundred twentieth day it is in 1136
effect. Prior to that date the agency may adopt the emergency 1137
rule, amendment, or rescission as a nonemergency rule, 1138
amendment, or rescission by complying with the procedure 1139
prescribed by this section for the adoption, amendment, and 1140
rescission of nonemergency rules. The agency shall not use the 1141
procedure of this division to readopt the emergency rule, 1142
amendment, or rescission so that, upon the emergency rule, 1143
amendment, or rescission becoming invalid under this division, 1144
the emergency rule, amendment, or rescission will continue in 1145
effect without interruption for another one-hundred-twenty-day 1146
period, except when section 106.02 of the Revised Code prevents 1147
the agency from adopting the emergency rule, amendment, or 1148
rescission as a nonemergency rule, amendment, or rescission 1149
within the one-hundred-twenty-day period. 1150

This division does not apply to the adoption of any 1151
emergency rule, amendment, or rescission by the tax commissioner 1152
under division (C) (2) of section 5117.02 of the Revised Code. 1153

(H) Rules adopted by an authority within the department of 1154
job and family services for the administration or enforcement of 1155
Chapter 4141. of the Revised Code or of the department of 1156
taxation shall be effective without a hearing as provided by 1157
this section if the statutes pertaining to such agency 1158
specifically give a right of appeal to the board of tax appeals 1159
or to a higher authority within the agency or to a court, and 1160
also give the appellant a right to a hearing on such appeal. 1161
This division does not apply to the adoption of any rule, 1162

amendment, or rescission by the tax commissioner under division 1163
(C) (1) or (2) of section 5117.02 of the Revised Code, or deny 1164
the right to file an action for declaratory judgment as provided 1165
in Chapter 2721. of the Revised Code from the decision of the 1166
board of tax appeals or of the higher authority within such 1167
agency. 1168

Sec. 121.39. (A) As used in this section, "environmental 1169
protection" means any of the following: 1170

(1) Protection of human health or safety, biological 1171
resources, or natural resources by preventing, reducing, or 1172
remediating the pollution or degradation of air, land, or water 1173
resources or by preventing or limiting the exposure of humans, 1174
animals, or plants to pollution; 1175

(2) Appropriation or regulation of privately owned 1176
property to preserve air, land, or water resources in a natural 1177
state or to wholly or partially restore them to a natural state; 1178

(3) Regulation of the collection, management, treatment, 1179
reduction, storage, or disposal of solid, hazardous, 1180
radioactive, or other wastes; 1181

(4) Plans or programs to promote or regulate the 1182
conservation, recycling, or reuse of energy, materials, or 1183
wastes. 1184

(B) Except as otherwise provided in division (E) of this 1185
section, when proposed legislation dealing with environmental 1186
protection or containing a component dealing with environmental 1187
protection is referred to a committee of the general assembly, 1188
other than a committee on rules or reference, the sponsor of the 1189
legislation, at the time of the first hearing of the legislation 1190
before the committee, shall submit to the members of the 1191

committee a written statement identifying either the 1192
documentation that is the basis of the legislation or the 1193
federal requirement or requirements with which the legislation 1194
is intended to comply. If the legislation is not based on 1195
documentation or has not been introduced to comply with a 1196
federal requirement or requirements, the written statement from 1197
the sponsor shall so indicate. 1198

Also at the time of the first hearing of the legislation 1199
before the committee, a statewide organization that represents 1200
businesses in this state and that elects its board of directors 1201
may submit to the members of the committee a written estimate of 1202
the costs to the regulated community in this state of complying 1203
with the legislation if it is enacted. 1204

At any hearing of the legislation before the committee, a 1205
representative of any state agency, environmental advocacy 1206
organization, or consumer advocacy organization or any private 1207
citizen may present documentation containing an estimate of the 1208
monetary and other costs to public health and safety and the 1209
environment and to consumers and residential utility customers, 1210
and the effects on property values, if the legislation is not 1211
enacted. 1212

(C) Until such time as the statement required under 1213
division (B) of this section is submitted to the committee to 1214
which proposed legislation dealing with environmental protection 1215
or containing a component dealing with environmental protection 1216
was referred, the legislation shall not be reported by that 1217
committee. This requirement does not apply if the component 1218
dealing with environmental protection is removed from the 1219
legislation or if two-thirds of the members of the committee 1220
vote in favor of a motion to report the proposed legislation. 1221

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

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

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

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

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

(a) The information identified under division (D) (3) of this section and, if the proposed rule or amendment is more

stringent than its federal counterpart, as identified in that 1251
division, the documentation considered under division (D) (2) of 1252
this section; 1253

(b) If an amendment proposed to a rule is being adopted or 1254
amended under a state statute that establishes standards with 1255
which the amendment shall comply, and the proposed amendment is 1256
more stringent than the rule that it is proposing to amend, the 1257
documentation considered under division (D) (2) of this section; 1258

(c) If division (D) (4) (a) or (b) of this section is not 1259
applicable, the documentation considered under division (D) (2) 1260
of this section. 1261

If the agency subsequently files a revision of such a 1262
proposed rule or amendment in accordance with division (D) of 1263
section 111.15 or division (C) of section 119.03 of the Revised 1264
Code, the revision shall be accompanied in electronic form by 1265
the applicable information or documentation. 1266

Division (D) of this section does not apply to any 1267
emergency rule adopted under division (B) (2) of section 111.15 1268
or division (G) of section 119.03 of the Revised Code, but does 1269
apply to any such rule that subsequently is adopted as a 1270
nonemergency rule under either of those divisions. 1271

The information or documentation submitted under division 1272
(D) (4) of this section may be in the form of a summary or index 1273
of available knowledge or information and shall consist of or be 1274
based upon the best available generally accepted knowledge or 1275
information in the appropriate fields, as determined by the 1276
agency that prepared the documentation. 1277

(E) The statement required under division (B) and the 1278
information or documentation required under division (D) of this 1279

section need not be prepared or submitted with regard to a 1280
proposed statute or rule, or an amendment to a rule, if the 1281
statute, rule, or amendment is procedural or budgetary in 1282
nature, or governs the organization or operation of a state 1283
agency, and will not affect the substantive rights or 1284
obligations of any person other than a state agency or an 1285
employee or contractor of a state agency. 1286

(F) The insufficiency, incompleteness, or inadequacy of a 1287
statement, information, documentation, or a summary of 1288
information or documentation provided in accordance with 1289
division (B) or (D) of this section shall not be grounds for 1290
invalidation of any statute, rule, or amendment to a rule. 1291

(G) This section applies only to the following: 1292

(1) Legislation and components of legislation dealing with 1293
environmental protection that are introduced in the general 1294
assembly after March 5, 1996; 1295

(2) Rules and rule amendments dealing with environmental 1296
protection that are filed with the joint committee on agency 1297
rule review in accordance with division (D) of section 111.15 or 1298
division (C) of section 119.03 of the Revised Code after March 1299
5, 1996. 1300

Sec. 121.71. As used in sections 121.71 to ~~121.76~~121.75 1301
of the Revised Code: 1302

(A) "Agency" means an "agency" as defined in section 1303
111.15 or 119.01 of the Revised Code. 1304

(B) "Rule" means a new rule or an amendment to an existing 1305
rule. "Rule" includes an appendix ~~or an attachment~~ to a rule. 1306

Sec. 121.72. An agency incorporates a text or other 1307

material into a rule by reference when it ~~states~~ refers in the 1308
rule ~~that a~~ to the text or other material ~~not contained in the~~ 1309
~~rule is to be treated as if it were~~ contained spelled out or 1310
otherwise reproduced in the rule. ~~The agency shall explain in~~ 1311
~~the rule how persons who reasonably can be expected to be~~ 1312
~~affected by the rule can obtain copies of the text or other~~ 1313
~~material that has been incorporated by reference. As part of the~~ 1314
~~explanation, the agency shall state whether the incorporated~~ 1315
~~text or other material is or is to be deposited in depository~~ 1316
~~libraries or is or is to be displayed on a web site. If the text~~ 1317
~~or other material incorporated by reference was, is, or~~ 1318
~~reasonably can be expected to be subject to change, the agency,~~ 1319
~~as part of the explanation, shall identify, and specify the date~~ 1320
~~of, the particular edition or other version of the text or other~~ 1321
~~material that is incorporated by reference. The agency shall~~ 1322
accompany the incorporation by reference with a citation that 1323
provides information sufficient to enable a reasonable person to 1324
whom the rule applies readily and without charge to find and 1325
inspect the text or other material that has been incorporated by 1326
reference. The citation shall specify the date of the text or 1327
other material or identify a particular edition or version of 1328
the text or other material and, if available, the date of the 1329
particular edition or version. The citation may include a web 1330
site address to the text or other material and may include other 1331
information that will enable the text or other material to be 1332
found readily and without charge. 1333

An agency that incorporates a text or other material by 1334
reference into a rule is presumed to have incorporated by 1335
reference a version of the text or other material that is in 1336
existence at the time of its incorporation by reference. An 1337
agency may not incorporate by reference a future version of the 1338

text or other material that is not in existence at the time of 1339
its incorporation by reference. 1340

~~Sec. 121.73. As used in this section, "rule" has the same~~ 1341
~~meaning as in section 121.71 of the Revised Code and also~~ 1342
~~includes the rescission of an existing rule.~~ 1343

~~(A) When an agency files the original or a revised version~~ 1344
~~of a rule in proposed form under division (D) of section 111.15~~ 1345
~~or division (C) of section 119.03, or a rule for review under~~ 1346
~~section 106.03 of the Revised Code, that incorporates a text or~~ 1347
~~other material by reference, the agency also shall file in~~ 1348
~~electronic form, one complete and accurate copy of the text or~~ 1349
~~other material incorporated by reference with, or otherwise~~ 1350
~~shall make the text or other material available to, the joint~~ 1351
~~committee on agency rule review only if the accompanying~~ 1352
~~citation is not such as reasonably would enable the joint~~ 1353
~~committee readily and without charge to find and inspect the~~ 1354
~~text or other material that has been incorporated by reference.~~ 1355
~~An agency is not, however, required to file a text or other~~ 1356
~~material incorporated by reference with the joint committee if~~ 1357
~~the agency revises a rule in proposed form that incorporates a~~ 1358
~~text or other material by reference and the incorporation by~~ 1359
~~reference in the revised version of the rule is identical to the~~ 1360
~~incorporation by reference in the preceding version of the rule.~~ 1361

~~If it is infeasible for the agency to file a text or other~~ 1362
~~material incorporated by reference electronically, the agency,~~ 1363
~~as soon as possible, but not later than three days after~~ 1364
~~completing the electronic filing, shall deliver one complete and~~ 1365
~~accurate copy of the text or other material incorporated by~~ 1366
~~reference to the joint committee, and shall attach a memorandum~~ 1367
~~to the text or other material identifying the filing to which it~~ 1368

~~relates.~~ 1369

~~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.~~ 1370
1371
1372

~~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.~~ 1373
1374
1375

~~(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.~~ 1376
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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.~~ 1383
1384
1385

~~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:~~ 1386
1387
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1390

~~(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~~ 1391
1392
1393

~~(B) Display a complete and accurate copy of the text or
other material incorporated by reference on a web site
maintained or made available by the agency.~~ 1394
1395
1396

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

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

- ~~(A) A section of the United States Code;~~
- (a) A section of the Revised Code;
- (b) An uncodified statute of this state;
- (c) An act of this state in the Laws of Ohio;
- (d) A rule in the Administrative Code;
- (e) A rule in the Monthly Record; or
- (f) A rule in the Register of Ohio.

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

<u>(a) A section of the United States Code;</u>	1425
(B) (b) An uncodified federal statute, if it has been	1426
appended as a legislative note to a section in the United States	1427
Code;	1428
(C) An act of this state in the Laws of Ohio or a <u>(c) A</u>	1429
federal act in the Statutes at Large;	1430
(D) (d) A federal regulation in the Federal Register or	1431
Code of Federal Regulations; or	1432
(E) A text or other material, including, without	1433
limitation, generally accepted industry standards, that is	1434
generally available to persons who reasonably can be expected to	1435
be affected by the rule.	1436
<u>(e) A federal regulation in the Federal Register.</u>	1437
<u>An agency that incorporates a text by reference into a</u>	1438
<u>rule under division (A) (2) of this section shall specify the</u>	1439
<u>date of the text that is being incorporated by reference.</u>	1440
<u>(B) Sections 121.71 to 121.74 of the Revised Code do not</u>	1441
<u>apply to the incorporation by reference into a rule of a text or</u>	1442
<u>other material insofar as the text or other material has any of</u>	1443
<u>the following characteristics:</u>	1444
<u>(1) It addresses the internal management of an agency;</u>	1445
<u>(2) It obtains or maintains authorization of a federally</u>	1446
<u>delegated program in this state;</u>	1447
<u>(3) It addresses or provides for the receipt of federal</u>	1448
<u>funds by the state under a federally funded program;</u>	1449
<u>(4) It is a form to be filled out or a digital application</u>	1450
<u>into which data is entered to fill out a form or its equivalent,</u>	1451

but only if the form or application merely collects information 1452
and does not establish principles of law or policy; 1453

(5) It states or restates federal legislative or 1454
administrative conclusions, such as interest rates or poverty 1455
levels, that are readily ascertainable from reliable sources, 1456
and that are not reasonably susceptible to state legislative or 1457
administrative variation; 1458

(6) It states or restates generally accepted commercial, 1459
industrial, building, fire, plumbing, electrical, safety, or 1460
other codes or standards that are readily available to or 1461
ascertainable by the persons the standards are likely to affect; 1462
or 1463

(7) It is copyrighted text or other material with regard 1464
to which permission to use has been obtained. 1465

Sec. 121.93. (A) An agency, at reasonable intervals, shall 1466
review its operations to identify principles of law or policy 1467
that have not been stated in a rule and that the agency is 1468
relying upon in conducting adjudications or other determinations 1469
of rights and liabilities or in issuing writings and other 1470
materials, such as instructions, directives, policy statements, 1471
guidelines, handbooks, manuals, advisories, notices, circulars, 1472
advertisements, forms, letters, and opinions. An agency is not 1473
required to identify principles of law or policy relied upon in 1474
issuing internal management rules as defined in section 111.15 1475
of the Revised Code. The agency shall complete at least one of 1476
the reviews during a governor's term. Within three months after 1477
the expiration of a governor's term, the agency electronically 1478
shall transmit to the joint committee on agency rule review, a 1479
notice stating that the agency has completed one or more of the 1480
reviews, specifying the exact number of reviews completed during 1481

the governor's expired term. 1482

(B) The agency shall determine whether a principle of law 1483
or policy thus identified has a general and uniform operation 1484
and establishes a legal regulation or standard that would not 1485
exist in its absence. If the principle of law or policy has 1486
these characteristics, the agency shall determine whether the 1487
principle of law or policy should be supplanted by its 1488
restatement in a rule to achieve one or more of the following as 1489
they are relevant to the principle of law or policy: 1490

(1) Assert the general and uniform operation of the 1491
principle of law or policy; 1492

(2) Make the principle of law or policy more readily 1493
available to the public; 1494

(3) Make the principle of law or policy more readily 1495
available to persons who specifically are affected by the 1496
principle of law or policy; 1497

(4) Enable the principle of law or policy to be better 1498
known in advance of its application; 1499

(5) Enable greater public participation in improvement and 1500
further development of the principle of law or policy; 1501

(6) Enable greater participation by persons specifically 1502
affected by the principle of law or policy in the improvement 1503
and further development of the principle of law or policy; 1504

(7) Make the principle of law or policy more easily 1505
understandable; or 1506

(8) Make the principle of law or policy more readily 1507
available to those legally charged with monitoring or reviewing 1508
the agency's operations. 1509

If a principle of law or policy aids in the interpretation 1510
of an existing rule or statute, the agency shall consider 1511
whether the aiding effect clarifies or otherwise resolves an 1512
uncertainty in the existing rule or statute. If the principle of 1513
law or policy can be so characterized, the agency shall consider 1514
whether the principle of law or policy should be supplanted by 1515
its restatement in an interpretive rule. The agency may not 1516
presume that a principle of law or policy that aids in the 1517
interpretation of an existing rule or statute is simply a 1518
reiteration of the existing rule or statute. 1519

(C) If the agency determines, in light of the foregoing 1520
standards, that rulemaking is indicated, the agency shall 1521
commence the rule-making process as soon as it is reasonably 1522
feasible to do so, but not later than the date that is six 1523
months after the determination was made. The principle of law or 1524
policy as it is restated in a rule does not need to be wholly 1525
congruent with the supplanted principle of law or policy. The 1526
agency lawfully may improve or develop further the supplanted 1527
principle of law or policy as it is restated in a rule. 1528

The agency may continue to rely upon the principle of law 1529
or policy, but only while it is complying with the preceding 1530
paragraph. The agency may not rely upon the principle of law or 1531
policy in advising with regard to or in determining the rights 1532
or liabilities of a person if the agency fails to commence the 1533
rule-making process by the deadline specified in the preceding 1534
paragraph, or if, after commencing the rule-making process, the 1535
agency neglects or abandons the rule-making process before it is 1536
completed. 1537

(D) A principle of law or policy that is relied upon 1538
directly or by clear implication from a statute applying to the 1539

agency does not need to be supplanted by rule. 1540

Sec. 121.931. (A) A person may petition an agency in 1541
writing to restate a principle of law or policy in a rule if (1) 1542
the person was a party to an adjudication or other determination 1543
before an agency that has resulted in an order or other 1544
disposition or was a party to a civil action in which judgment 1545
has been entered, and (2) the adjudication or other 1546
determination, or the civil action, involved a principle of law 1547
or policy relied upon by the agency that, under section 121.93 1548
of the Revised Code, should have been supplanted by its 1549
restatement in a rule but has not been so supplanted. The 1550
petition shall briefly explain why the principle of law or 1551
policy should, under section 121.93 of the Revised Code, be 1552
supplanted by its restatement in a rule. The person shall send 1553
the petition to the agency not later than the ninetieth day 1554
after the order or other disposition was issued or the judgment 1555
was entered. The person also shall send a copy of the petition 1556
to the joint committee on agency rule review. 1557

(B) The agency, not later than the thirtieth day after 1558
receiving a timely petition, shall consider the petition in 1559
light of section 121.93 of the Revised Code, and shall notify 1560
the petitioner in writing, by certified mail, return receipt 1561
requested, whether it grants or intends to deny the petition. 1562

(1) If the agency grants the petition, it shall commence 1563
the rule-making process as soon as it is reasonably feasible to 1564
do so, but not later than the date that is six months after the 1565
petition was granted. The principle of law or policy as it is 1566
restated in a rule does not need to be wholly congruent with the 1567
supplanted principle of law or policy. The agency lawfully may 1568
improve or develop further the supplanted principle of law or 1569

policy. 1570

The agency may continue to rely upon the principle of law 1571
or policy, but only while it is complying with the preceding 1572
paragraph. The agency may not rely upon the principle of law or 1573
policy in advising with regard to or in determining the rights 1574
or liabilities of a person if the agency fails to commence the 1575
rule-making process by the deadline specified in the preceding 1576
paragraph, or if, after commencing the rule-making process, the 1577
agency neglects or abandons the rule-making process before it is 1578
completed. 1579

(2) If the agency intends to deny the petition, it shall 1580
send the petitioner a notice affording the petitioner an 1581
opportunity for a hearing on the petition and briefly explaining 1582
why the agency intends to deny the petition. If the petitioner 1583
does not in writing request a hearing within fifteen days after 1584
receiving the notice, the agency shall deny the petition and 1585
notify the petitioner in writing. If the petitioner responds in 1586
writing within the fifteen-day period requesting a hearing, the 1587
agency, by certified mail, return receipt requested, promptly 1588
shall notify the petitioner of the time and place for the 1589
hearing, which shall be not earlier than the thirtieth day after 1590
the notice was sent to the petitioner. 1591

(C) At the hearing, the agency shall explain why, 1592
notwithstanding section 121.93 of the Revised Code, it intends 1593
to deny the petition, and the petitioner shall explain why under 1594
that section the petitioner believes the agency's intention to 1595
be erroneous. The hearing shall be informal. The petitioner may 1596
be assisted by counsel at the hearing. 1597

(D) Not later than the thirtieth day after the hearing 1598
concludes, the agency shall grant or deny the petition. 1599

(1) If the agency grants the petition, it shall commence 1600
the rule-making process as soon as it is reasonably feasible to 1601
do so, but not later than the date that is six months after the 1602
determination was made. The principle of law or policy as it is 1603
restated in a rule does not need to be wholly congruent with the 1604
supplanted principle of law or policy. The agency lawfully may 1605
improve or develop further the supplanted principle of law or 1606
policy as it is restated in a rule. 1607

The agency may continue to rely upon the principle of law 1608
or policy, but only while it is complying with the preceding 1609
paragraph. The agency may not rely upon the principle of law or 1610
policy in advising with regard to or in determining the rights 1611
or liabilities of a person if the agency fails to commence the 1612
rule-making process by the deadline specified in the preceding 1613
paragraph, or if, after commencing the rule-making process, the 1614
agency neglects or abandons the rule-making process before it is 1615
completed. 1616

(2) If the petitioner failed to appear at the hearing, or 1617
if the petitioner failed to persuade the agency that its 1618
intention to deny the petition is erroneous, the agency shall 1619
deny the petition. 1620

The agency shall send notice in writing to the petitioner 1621
of the outcome. If the outcome is denial of the petition, the 1622
notice shall explain briefly why the agency is denying the 1623
petition. The petitioner is not entitled to appeal the outcome. 1624

Sec. 121.933. Sections 101.352, 101.353, 121.93, and 1625
121.931 of the Revised Code do not apply to: 1626

(A) The following elected state officers or their offices: 1627
the governor, the lieutenant governor, the secretary of state, 1628

the auditor of state, the treasurer of state, and the attorney 1629
general; 1630

(B) A state institution of higher education as defined in 1631
section 3345.011 of the Revised Code; or 1632

(C) The public employees retirement system, the Ohio 1633
police and fire pension fund, the state teachers retirement 1634
system, the school employees retirement system, and the state 1635
highway patrol retirement system. 1636

Sec. 145.09. The public employees retirement board shall 1637
elect from its membership a chairperson. The board shall appoint 1638
an executive director who shall serve as secretary to the board, 1639
an actuary, and other employees as necessary for the transaction 1640
of the business of the public employees retirement system. The 1641
compensation of all persons so appointed shall be fixed by the 1642
board. Such persons appointed by the board are not employees of 1643
the state and are not subject to Chapter 124. of the Revised 1644
Code. 1645

If the board provides health care coverage to employees of 1646
the retirement system, it may permit employees of the Ohio 1647
public employees deferred compensation board to participate. 1648

Effective ninety days after September 15, 2004, the board 1649
may not employ a state retirement system investment officer, as 1650
defined in section 1707.01 of the Revised Code, who does not 1651
hold a valid state retirement system investment officer license 1652
issued by the division of securities in the department of 1653
commerce. 1654

Every expense voucher of an employee, officer, or board 1655
member of the public employees retirement system shall itemize 1656
all purchases and expenditures. 1657

The board shall perform other functions as required for 1658
the proper execution of this chapter, and may adopt rules in 1659
accordance with section 111.15 of the Revised Code for the 1660
proper administration and management of this chapter. 1661

The board may take all appropriate action to avoid payment 1662
by the system or its members of federal or state income taxes on 1663
contributions to the system or amounts earned on such 1664
contributions. 1665

Notice of proposed rules shall be given to interested 1666
parties and rules adopted by the board shall be published and 1667
otherwise made available. When it files a rule with the joint 1668
committee on agency rule review pursuant to section 111.15 of 1669
the Revised Code, the board shall submit to the Ohio retirement 1670
study council a copy of the full text of the rule, and if 1671
applicable, a copy of the rule summary and fiscal analysis 1672
required by division (B) of section ~~127.18~~106.024 of the 1673
Revised Code. 1674

The board may sue and be sued, plead and be impleaded, 1675
contract and be contracted with. All of its business shall be 1676
transacted, all of its funds invested, all warrants for money 1677
drawn and payments made, and all of its cash and securities and 1678
other property shall be held in the name of the board, or in the 1679
name of its nominee, provided that nominees are authorized by 1680
retirement board resolution for the purpose of facilitating the 1681
ownership and transfer of investments. 1682

If the Ohio retirement study council establishes a uniform 1683
format for any report the board is required to submit to the 1684
council, the board shall submit the report in that format. 1685

Sec. 742.10. The board of trustees of the Ohio police and 1686

fire pension fund may sue and be sued, plead and be impleaded, 1687
contract and be contracted with, employ and fix the compensation 1688
of employees, and adopt rules for the proper administration and 1689
management of the fund. 1690

Effective ninety days after September 15, 2004, the board 1691
of trustees may not employ a state retirement system investment 1692
officer, as defined in section 1707.01 of the Revised Code, who 1693
does not hold a valid state retirement system investment officer 1694
license issued by the division of securities in the department 1695
of commerce. 1696

If the Ohio retirement study council establishes a uniform 1697
format for any report the board is required to submit to the 1698
council, the board shall submit the report in that format. 1699

The attorney general shall prescribe procedures for the 1700
adoption of rules authorized under this chapter, consistent with 1701
the provisions of section 111.15 of the Revised Code under which 1702
all rules shall be filed in order to be effective. Such 1703
procedures shall establish methods by which notice of proposed 1704
rules is given to interested parties and rules adopted by the 1705
board published and otherwise made available. When it files a 1706
rule with the joint committee on agency rule review pursuant to 1707
section 111.15 of the Revised Code, the board shall submit to 1708
the Ohio retirement study council a copy of the full text of the 1709
rule, and if applicable, a copy of the rule summary and fiscal 1710
analysis required by division (B) of section ~~127.18~~106.024 of 1711
the Revised Code. 1712

Sec. 1707.20. (A) (1) The division of securities may adopt, 1713
amend, and rescind such rules, forms, and orders as are 1714
necessary to carry out sections 1707.01 to 1707.45 of the 1715
Revised Code, including rules and forms governing registration 1716

statements, applications, and reports, and defining any terms, 1717
whether or not used in sections 1707.01 to 1707.45 of the 1718
Revised Code, insofar as the definitions are not inconsistent 1719
with these sections. For the purpose of rules and forms, the 1720
division may classify securities, persons, and matters within 1721
its jurisdiction, and prescribe different requirements for 1722
different classes. 1723

(2) Notwithstanding sections 121.71 to ~~121.76~~121.75 of 1724
the Revised Code, the division may incorporate by reference into 1725
its rules any statute enacted by the United States congress or 1726
any rule, regulation, or form promulgated by the securities and 1727
exchange commission, or by another federal agency, in a manner 1728
that also incorporates all future amendments to the statute, 1729
rule, regulation, or form. 1730

(B) No rule, form, or order may be made, amended, or 1731
rescinded unless the division finds that the action is necessary 1732
or appropriate in the public interest or for the protection of 1733
investors, clients, prospective clients, state retirement 1734
systems, or the workers' compensation system and consistent with 1735
the purposes fairly intended by the policy and provisions of 1736
sections 1707.01 to 1707.45 of the Revised Code. In prescribing 1737
rules and forms and in otherwise administering sections 1707.01 1738
to 1707.45 of the Revised Code, the division may cooperate with 1739
the securities administrators of the other states and the 1740
securities and exchange commission with a view of effectuating 1741
the policy of this section to achieve maximum uniformity in the 1742
form and content of registration statements, applications, 1743
reports, and overall securities regulation wherever practicable. 1744

(C) The division may by rule or order prescribe: 1745

(1) The form and content of financial statements required 1746

under sections 1707.01 to 1707.45 of the Revised Code; 1747

(2) The circumstances under which consolidated financial 1748
statements will be filed; 1749

(3) Whether any required financial statements shall be 1750
certified by independent or certified public accountants. All 1751
financial statements shall be prepared in accordance with 1752
generally accepted accounting practices. 1753

(D) All rules and forms of the division shall be 1754
published; and in addition to fulfilling the requirements of 1755
Chapter 119. of the Revised Code, the division shall prescribe, 1756
and shall publish and make available its rules regarding the 1757
sale of securities, the administration of sections 1707.01 to 1758
1707.45 of the Revised Code, and the procedure and practice 1759
before the division. 1760

(E) (1) No provision of sections 1707.01 to 1707.45 of the 1761
Revised Code imposing any liability applies to any act done or 1762
omitted in good faith in conformity with any rule, form, or 1763
order of the division of securities, notwithstanding that the 1764
rule, form, or order may later be amended or rescinded or be 1765
determined by judicial or other authority to be invalid for any 1766
reason, except that the issuance of an order granting 1767
effectiveness to a registration under section 1707.09 or 1768
1707.091 of the Revised Code for the purposes of this division 1769
shall not be deemed an order other than as the establishment of 1770
the fact of registration. 1771

(2) No provision of sections 1707.01 to 1707.45 of the 1772
Revised Code imposing any liability, penalty, sanction, or 1773
disqualification applies to any act done or omitted in good 1774
faith in conformity with either of the following: 1775

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

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

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

Sec. 3304.15. (A) There is hereby created the opportunities for Ohioans with disabilities agency. The agency is the designated state unit authorized under the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 701, as amended, to provide vocational rehabilitation services to eligible individuals with disabilities.

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

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

(1) The governance of the agency;

(2) The conduct of agency employees and officers;

(3) The performance of agency business;

(4) The custody, use, and preservation of agency records, papers, books, documents, and property.

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

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

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

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

(4) Take appropriate action to guarantee rights of vocational rehabilitation services to eligible individuals with disabilities;

(5) Consult with and advise other state agencies and coordinate programs for eligible individuals with disabilities;

(6) Comply with the requirements for match as part of

budget submission;	1832
(7) Establish research and demonstration projects;	1833
(8) Accept, hold, invest, reinvest, or otherwise use gifts to further vocational rehabilitation services;	1834 1835
(9) For the purposes of the business enterprise program administered under sections 3304.28 to 3304.35 of the Revised Code:	1836 1837 1838
(a) Establish and manage small business entities owned or operated by individuals who are blind;	1839 1840
(b) Purchase insurance;	1841
(c) Accept computers.	1842
(10) Enter into contracts and other agreements for the provision of vocational rehabilitation services.	1843 1844
(D) The executive director, <u>by rule adopted under Chapter 119. of the Revised Code,</u> shall establish a fee schedule for vocational rehabilitation services in accordance with 34 C.F.R. 361.50.	1845 1846 1847 1848
Sec. 3307.04. The general administration and the management of the state teachers retirement system is hereby vested in the state teachers retirement board, which shall adopt rules necessary for the fulfillment of its duties and responsibilities under Chapter 3307. of the Revised Code. The board shall adopt policies for the operation of the system, and the investment of funds as provided by section 3307.15 of the Revised Code, and may authorize its administrative officers, or committees composed of board members, to act for the board in accord with such policies.	1849 1850 1851 1852 1853 1854 1855 1856 1857 1858

The board may take all appropriate action to avoid payment 1859
by the system or its members of federal or state income taxes on 1860
contributions to the system or amounts earned on such 1861
contributions and to comply with any plan qualification 1862
requirements, including those on distributions, established 1863
under Title 26 of the United States Code. 1864

The attorney general shall prescribe procedures for the 1865
adoption of rules authorized under this chapter, consistent with 1866
the provision of section 111.15 of the Revised Code under which 1867
all rules shall be filed in order to be effective. Such 1868
procedures shall establish methods by which notice of proposed 1869
rules is given to interested parties and rules adopted by the 1870
board published and otherwise made available. When it files a 1871
rule with the joint committee on agency rule review pursuant to 1872
section 111.15 of the Revised Code, the board shall submit to 1873
the Ohio retirement study council a copy of the full text of the 1874
rule, and if applicable, a copy of the rule summary and fiscal 1875
analysis required by division (B) of section ~~127.18~~106.024 of 1876
the Revised Code. 1877

All rules adopted pursuant to this chapter, prior to 1878
August 20, 1976, shall be published and made available to 1879
interested parties by January 1, 1977. 1880

Sec. 3309.04. The general administration and management of 1881
the school employees retirement system and making effective 1882
Chapter 3309. of the Revised Code are hereby vested in the 1883
school employees retirement board which may adopt rules in 1884
accordance with section 111.15 of the Revised Code and may 1885
authorize its administrative officers, or committees composed of 1886
members of said board, to act for the board in accordance with 1887
such policies and subject to subsequent approval by the board. 1888

Notice of proposed rules shall be given to interested 1889
parties and rules adopted by the board shall be published and 1890
otherwise made available. When it files a rule with the joint 1891
committee on agency rule review pursuant to section 111.15 of 1892
the Revised Code, the board shall submit to the Ohio retirement 1893
study council a copy of the full text of the rule, and if 1894
applicable, a copy of the rule summary and fiscal analysis 1895
required by division (B) of section ~~127.18~~106.024 of the 1896
Revised Code. 1897

All rules adopted pursuant to this chapter, prior to 1898
August 20, 1976, shall be published and made available to 1899
interested parties by January 1, 1977. 1900

Sec. 3375.01. A state library board is hereby created to 1901
be composed of five members to be appointed by the state board 1902
of education. One member shall be appointed each year for a term 1903
of five years. No one is eligible to membership on the state 1904
library board who is or has been for a year previous to 1905
appointment a member of the state board of education. A member 1906
of the state library board shall not during the member's term of 1907
office be a member of the board of library trustees for any 1908
library in any subdivision in the state. Before entering on 1909
official duties, each member shall subscribe to the official 1910
oath of office. All vacancies on the state library board shall 1911
be filled by the state board of education by appointment for the 1912
unexpired term. The members shall receive no compensation, but 1913
shall be paid their actual and necessary expenses incurred in 1914
the performance of their duties or in the conduct of authorized 1915
board business, within or without the state. 1916

At its regular meeting next prior to the beginning of each 1917
fiscal biennium, the state library board shall elect a president 1918

and vice-president each of whom shall serve for two years or 1919
until a successor is elected and qualified. 1920

The state library board is responsible for the state 1921
library of Ohio and a statewide program of development and 1922
coordination of library services, and its powers include the 1923
following: 1924

(A) Maintain the state library, holding custody of books, 1925
periodicals, pamphlets, films, recordings, papers, and other 1926
materials and equipment. The board may purchase or procure from 1927
an insurance company licensed to do business in this state 1928
policies of insurance insuring the members of the board and the 1929
officers, employees, and agents of the state library against 1930
liability on account of damage or injury to persons or property 1931
resulting from any act or omission of the board members, 1932
officers, employees, and agents of the state library in their 1933
official capacity. 1934

(B) Accept, receive, administer, and expend, in accordance 1935
with the terms thereof, any moneys, materials, or other aid 1936
granted, appropriated, or made available to it for library 1937
purposes, by the United States, or any of its agencies, or by 1938
any other source, public or private; 1939

(C) Administer such funds as the general assembly may make 1940
available to it for the improvement of public library services, 1941
interlibrary cooperation, or for other library purposes; 1942

(D) Contract with other agencies, organizations, 1943
libraries, library schools, boards of education, universities, 1944
public and private, within or without the state, for library 1945
services, facilities, research, or any allied or related 1946
purpose; 1947

(E) In accordance with Chapter 119. of the Revised Code, 1948
approve, disapprove, or modify resolutions for establishment of 1949
county district libraries, and approve, disapprove, or modify 1950
resolutions to determine the boundaries of such districts, along 1951
county lines or otherwise, and approve, disapprove, or modify 1952
resolutions to redefine boundaries, along county lines or 1953
otherwise, where questions subsequently arise as a result of 1954
school district consolidations; 1955

(F) Upon consolidation of two or more school districts and 1956
in accordance with Chapter 119. of the Revised Code, define and 1957
adjust the boundaries of the new public library district 1958
resulting from such consolidation and resolve any disputes or 1959
questions pertaining to the boundaries, organization, and 1960
operation of the new library district; 1961

(G) Upon application of one or more boards of library 1962
trustees and in accordance with Chapter 119. of the Revised 1963
Code, define, amend, and adjust the boundaries of the library 1964
districts making such application and the boundaries of adjacent 1965
library districts; 1966

(H) Upon application of one or more boards of library 1967
trustees, or upon the state library board's own initiative, and 1968
in accordance with Chapter 119. of the Revised Code, define, 1969
amend, and adjust the boundaries of overlapping library 1970
districts to eliminate areas of overlap; 1971

(I) Upon application of any private corporation or library 1972
association maintaining a free public library prior to September 1973
4, 1947, and in accordance with Chapter 119. of the Revised 1974
Code, define, amend, and adjust the boundaries of a library 1975
district for the private corporation or library association for 1976
the sole purpose of preventing or eliminating areas of overlap 1977

with other library districts in relation to tax levies described 1978
in sections 5705.19, 5705.191, and 5705.21 of the Revised Code 1979
that are or may be levied in support of the private corporation 1980
or library association; 1981

(J) Certify its actions relating to boundaries authorized 1982
in this section, to boards of election, taxing authorities, the 1983
boards of trustees of libraries affected, and other appropriate 1984
bodies; 1985

(K) Encourage and assist the efforts of libraries and 1986
local governments to develop mutual and cooperative solutions to 1987
library service problems; 1988

~~(L) Designate by rule five depository libraries so as to 1989
provide statewide, geographically distributed accessibility to 1990
agency deposits of texts or other materials that have been 1991
incorporated by reference into rules; 1992~~

~~(M) Recommend to the governor and to the general assembly 1993
such changes in the law as will strengthen and improve library 1994
services and operations; 1995~~

~~(N) (M) In accordance with Chapter 119. of the Revised 1996
Code, adopt such rules as are necessary for the carrying out of 1997
any function imposed on it by law, and provide such rules as are 1998
necessary for its government and the government of its 1999
employees. The board may delegate to the state librarian the 2000
management and administration of any function imposed on it by 2001
law. 2002~~

Sec. 5505.04. (A) (1) The general administration and 2003
management of the state highway patrol retirement system and the 2004
making effective of this chapter are hereby vested in the state 2005
highway patrol retirement board. The board may sue and be sued, 2006

plead and be impleaded, contract and be contracted with, and do 2007
all things necessary to carry out this chapter. 2008

The board shall consist of the following members: 2009

(a) The superintendent of the state highway patrol; 2010

(b) Two retirant members who reside in this state; 2011

(c) Five employee-members; 2012

(d) One member, known as the treasurer of state's 2013
investment designee, who shall be appointed by the treasurer of 2014
state for a term of four years and who shall have the following 2015
qualifications: 2016

(i) The member is a resident of this state. 2017

(ii) Within the three years immediately preceding the 2018
appointment, the member has not been employed by the public 2019
employees retirement system, police and fire pension fund, state 2020
teachers retirement system, school employees retirement system, 2021
or state highway patrol retirement system or by any person, 2022
partnership, or corporation that has provided to one of those 2023
retirement systems services of a financial or investment nature, 2024
including the management, analysis, supervision, or investment 2025
of assets. 2026

(iii) The member has direct experience in the management, 2027
analysis, supervision, or investment of assets. 2028

(iv) The member is not currently employed by the state or 2029
a political subdivision of the state. 2030

(e) Two investment expert members, who shall be appointed 2031
to four-year terms. One investment expert member shall be 2032
appointed by the governor, and one investment expert member 2033

shall be jointly appointed by the speaker of the house of 2034
representatives and the president of the senate. Each investment 2035
expert member shall have the following qualifications: 2036

(i) Each investment expert member shall be a resident of 2037
this state. 2038

(ii) Within the three years immediately preceding the 2039
appointment, each investment expert member shall not have been 2040
employed by the public employees retirement system, police and 2041
fire pension fund, state teachers retirement system, school 2042
employees retirement system, or state highway patrol retirement 2043
system or by any person, partnership, or corporation that has 2044
provided to one of those retirement systems services of a 2045
financial or investment nature, including the management, 2046
analysis, supervision, or investment of assets. 2047

(iii) Each investment expert member shall have direct 2048
experience in the management, analysis, supervision, or 2049
investment of assets. 2050

(2) The board shall annually elect a chairperson and vice- 2051
chairperson from among its members. The vice-chairperson shall 2052
act as chairperson in the absence of the chairperson. A majority 2053
of the members of the board shall constitute a quorum. The board 2054
shall meet not less than once each year, upon sufficient notice 2055
to the members. All meetings of the board shall be open to the 2056
public except executive sessions as set forth in division (G) of 2057
section 121.22 of the Revised Code, and any portions of any 2058
sessions discussing medical records or the degree of disability 2059
of a member excluded from public inspection by this section. 2060

(3) Any member appointed under this section shall hold 2061
office until the end of the member's term or, if later, the date 2062

the member's successor takes office. 2063

(B) The attorney general shall prescribe procedures for 2064
the adoption of rules authorized under this chapter, consistent 2065
with the provision of section 111.15 of the Revised Code under 2066
which all rules shall be filed in order to be effective. Such 2067
procedures shall establish methods by which notice of proposed 2068
rules are given to interested parties and rules adopted by the 2069
board published and otherwise made available. When it files a 2070
rule with the joint committee on agency rule review pursuant to 2071
section 111.15 of the Revised Code, the board shall submit to 2072
the Ohio retirement study council a copy of the full text of the 2073
rule, and if applicable, a copy of the rule summary and fiscal 2074
analysis required by division (B) of section ~~127.18~~106.024 of 2075
the Revised Code. 2076

(C) (1) As used in this division, "personal history record" 2077
means information maintained by the board on an individual who 2078
is a member, former member, retirant, or beneficiary that 2079
includes the address, electronic mail address, telephone number, 2080
social security number, record of contributions, correspondence 2081
with the system, and other information the board determines to 2082
be confidential. 2083

(2) The records of the board shall be open to public 2084
inspection and may be made available in printed or electronic 2085
format, except for the following which shall be excluded: the 2086
member's, former member's, retirant's, or beneficiary's personal 2087
history record and the amount of a monthly allowance or benefit 2088
paid to a retirant, beneficiary, or survivor, except with the 2089
written authorization of the individual concerned. 2090

(D) All medical reports and recommendations are privileged 2091
except as follows: 2092

(1) Copies of such medical reports or recommendations 2093
shall be made available to the individual's personal physician, 2094
attorney, or authorized agent upon written release received from 2095
such individual or such individual's agent, or when necessary 2096
for the proper administration of the fund to the board-assigned 2097
physician. 2098

(2) Documentation required by section 2929.193 of the 2099
Revised Code shall be provided to a court holding a hearing 2100
under that section. 2101

(E) Notwithstanding the exceptions to public inspection in 2102
division (C)(2) of this section, the board may furnish the 2103
following information: 2104

(1) If a member, former member, or retirant is subject to 2105
an order issued under section 2907.15 of the Revised Code or an 2106
order issued under division (A) or (B) of section 2929.192 of 2107
the Revised Code or is convicted of or pleads guilty to a 2108
violation of section 2921.41 of the Revised Code, on written 2109
request of a prosecutor as defined in section 2935.01 of the 2110
Revised Code, the board shall furnish to the prosecutor the 2111
information requested from the individual's personal history 2112
record. 2113

(2) Pursuant to a court order issued under Chapters 3119., 2114
3121., and 3123. of the Revised Code, the board shall furnish to 2115
a court or child support enforcement agency the information 2116
required under those chapters. 2117

(3) At the written request of any nonprofit organization 2118
or association providing services to retirement system members, 2119
retirants, or beneficiaries, the board shall provide to the 2120
organization or association a list of the names and addresses of 2121

members, former members, retirants, or beneficiaries if the 2122
organization or association agrees to use such information 2123
solely in accordance with its stated purpose of providing 2124
services to such individuals and not for the benefit of other 2125
persons, organizations, or associations. The costs of compiling, 2126
copying, and mailing the list shall be paid by such entity. 2127

(4) Within fourteen days after receiving from the director 2128
of job and family services a list of the names and social 2129
security numbers of recipients of public assistance pursuant to 2130
section 5101.181 of the Revised Code, the board shall inform the 2131
auditor of state of the name, current or most recent employer 2132
address, and social security number of each member whose name 2133
and social security number are the same as those of a person 2134
whose name or social security number was submitted by the 2135
director. The board and its employees, except for purposes of 2136
furnishing the auditor of state with information required by 2137
this section, shall preserve the confidentiality of recipients 2138
of public assistance in compliance with section 5101.181 of the 2139
Revised Code. 2140

(5) The system shall comply with orders issued under 2141
section 3105.87 of the Revised Code. 2142

On the written request of an alternate payee, as defined 2143
in section 3105.80 of the Revised Code, the system shall furnish 2144
to the alternate payee information on the amount and status of 2145
any amounts payable to the alternate payee under an order issued 2146
under section 3105.171 or 3105.65 of the Revised Code. 2147

(6) At the request of any person, the board shall make 2148
available to the person copies of all documents, including 2149
resumes, in the board's possession regarding filling a vacancy 2150
of an employee member or retirant member of the board. The 2151

person who made the request shall pay the cost of compiling, 2152
copying, and mailing the documents. The information described in 2153
this division is a public record. 2154

(7) The system shall provide the notice required by 2155
section 5505.263 of the Revised Code to the prosecutor assigned 2156
to the case. 2157

(8) The system may provide information requested by the 2158
United States social security administration, United States 2159
centers for medicare and medicaid, public employees retirement 2160
system, Ohio public employees deferred compensation program, 2161
Ohio police and fire pension fund, school employees retirement 2162
system, state teachers retirement system, or Cincinnati 2163
retirement system. 2164

(F) A statement that contains information obtained from 2165
the system's records that is certified and signed by an officer 2166
of the retirement system and to which the system's official seal 2167
is affixed, or copies of the system's records to which the 2168
signature and seal are attached, shall be received as true 2169
copies of the system's records in any court or before any 2170
officer of this state. 2171

(G) The board may maintain records in printed or 2172
electronic format. 2173

Section 2. That existing sections 101.35, 103.05, 2174
103.0511, 106.021, 106.03, 106.031, 107.52, 111.15, 119.03, 2175
121.39, 121.71, 121.72, 121.73, 121.74, 121.75, 127.18, 145.09, 2176
742.10, 1707.20, 3304.15, 3307.04, 3309.04, 3375.01, and 5505.04 2177
and section 121.76 of the Revised Code are hereby repealed. 2178

Section 3. Sections 1 and 2 of this act take effect on the 2179
date that is six months after the effective date of this 2180

section. 2181

Section 4. Legislative Information Systems, in 2182
consultation with the Director of the Legislative Service 2183
Commission and the Executive Director of the Joint Committee on 2184
Agency Rule Review, shall program or reprogram the electronic 2185
rule filing system as necessary to enable the amendments made by 2186
this act to be fulfilled. Legislative Information Systems shall 2187
complete the programming or reprogramming as soon as reasonably 2188
possible after the effective date of this section but not later 2189
than the date that is six months after that effective date. 2190