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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

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Office

H.B. 775  
136<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Callender and Dovilla

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### SUMMARY

- Eliminates state agencies' general authority or duty to adopt administrative rules to implement, administer, or enforce the law overseen by the agencies.
- Requires each agency to identify and immediately stop enforcing all rules adopted by the agency pursuant to general rulemaking authority eliminated by the bill.
- Requires each agency to begin the process of amending or rescinding its rules so that they no longer exceed or conflict with the agency's rulemaking authority no later than the rules' next scheduled review date or, if a rule does not have a scheduled review date, five years after the bill's effective date.

### DETAILED ANALYSIS

#### General authority to adopt administrative rules

The bill eliminates state agencies' general authority or duty to adopt rules to implement, administer, or enforce the law the agencies oversee. For purposes of the bill, an "agency" is any governmental entity of the state, including any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college.<sup>1</sup>

The bill does not appear to apply to rules adopted by the Ohio Supreme Court governing practice and procedure in state courts, recordkeeping by state courts, or the admission to the practice of law and disciplining of attorneys. The Ohio Constitution grants the Court the power to establish and amend these rules.<sup>2</sup>

<sup>1</sup> R.C. 121.96(A), with conforming changes throughout the bill.

<sup>2</sup> Ohio Constitution, Article IV, Section 5.

Additionally, the bill does not eliminate an agency’s authority or duty to adopt a specific rule or a specific list of rules. For comparison, the left column of the following table contains examples of laws allowing or requiring general rulemaking that are repealed by the bill or amended to remove general rulemaking authority. The right column contains examples of laws requiring a specific rule or lists of rules and are, therefore, unchanged by the bill.

#### Examples of rulemaking authority

Laws requiring or allowing general rulemaking — repealed or amended by the bill	Laws requiring or allowing a specific rule or list of rules — NOT repealed or amended by the bill
<p>“The attorney general may promulgate any rules that are necessary for the implementation of [the law governing defense of a state officer or employee].”<sup>3</sup></p>	<p>“The attorney general shall adopt a rule pursuant to this chapter that defines the term ‘net worth’ for purposes of [laws governing an award of attorney’s fees in certain actions].”<sup>4</sup></p>
<p>“The administrator of workers’ compensation . . . shall adopt rules . . . to administer and enforce [the Professional Employer Organizations Law] . . . .”<sup>5</sup></p>	<p>“The administrator . . . all adopt rules establishing criteria for determining both of the following:</p> <ol style="list-style-type: none"> <li>1. The amount of the penalty assessed against an employer for a violation of . . . this section;</li> <li>2. Acts or omissions that do not constitute a violation of . . . this section.”<sup>6</sup></li> </ol>

### Agency compliance

The bill requires each agency to identify all current rules adopted by the agency that were adopted under general rulemaking authority eliminated by the bill. The agency must then determine whether an identified rule exceeds or conflicts with the agency's rulemaking authority in light of changes made by the bill. If a rule exceeds or conflicts with the agency's rulemaking authority, the agency must immediately stop enforcing the rule to the extent it exceeds or conflicts with the agency’s authority.

Not later than the rule's review date (typically, five years after its adoption or five years after its most recent review), the agency must commence the process of amending or rescinding the rule so that it no longer exceeds or conflicts with the agency's rulemaking authority. If the rule does not have a review date, the agency must commence the process of amending or

<sup>3</sup> R.C. 109.366, repealed.

<sup>4</sup> R.C. 119.093, not in the bill.

<sup>5</sup> R.C. 4125.02, amended to remove general rulemaking authority.

<sup>6</sup> R.C. 4123.25, not in the bill.

rescinding the rule no later than the date that is five years after the bill’s effective date. Under continuing law, rules that are not subject to review by the Joint Committee on Agency Rule Review (JCARR) are not assigned review dates.<sup>7</sup>

The General Assembly often enacts laws directing an administrative agency to adopt rules implementing, administering, or enforcing legislative policies.<sup>8</sup> As a result, certain laws rely heavily on broad rulemaking authority for their implementation, administration, or enforcement. Eliminating or amending sections of the Revised Code that grant general rulemaking authority may leave gaps in an agency’s ability to implement, administer, or enforce the legislature’s will.

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## HISTORY

Action	Date
Introduced	03-24-26

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<sup>7</sup> R.C. 121.96(B) and (C) and 111.15 ; R.C. 119.04, not in the bill.

<sup>8</sup> See, e.g., *Belden v. Union Cent. Life Ins. Co.*, 143 Ohio St. 329 (1944) and *Matz v. J.L. Curtis Cartage Co.*, 132 Ohio St. 271 (1937).