

# AN ACT

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

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 101.35, 103.05, 103.0511, 106.021, 106.03, 106.031, 107.52, 111.15, 119.03, 121.39, 121.71, 121.72, 121.73, 121.74, 121.75, 127.18, 145.09, 742.10, 1707.20, 3304.15, 3307.04, 3309.04, 3375.01, and 5505.04 be amended, section 127.18 (106.024) of the Revised Code be amended for the purpose of adopting a new section number as indicated in parentheses, and sections 101.352, 101.353, 106.032, 121.93, 121.931, and 121.933 of the Revised Code be enacted to read as follows:

Sec. 101.35. There is hereby created in the general assembly the joint committee on agency rule review. The committee shall consist of five members of the house of representatives and five members of the senate. Within fifteen days after the commencement of the first regular session of each general assembly, the speaker of the house of representatives shall appoint the members of the committee from the house of representatives, and the president of the senate shall appoint the members of the committee from the senate. Not more than three of the members from each house shall be of the same political party. In the first regular session of a general assembly, the chairperson of the committee shall be appointed by the speaker of the house from among the house members of the committee, and the vice-chairperson shall be appointed by the president of the senate from among the senate members of the committee. In the second regular session of a general assembly, the chairperson shall be appointed by the president of the senate from among the senate members of the committee, and the vice-chairperson shall be appointed by the speaker of the house from among the house members of the committee. The chairperson, vice-chairperson, and members of the committee shall serve until their respective successors are appointed or until they are no longer members of the general assembly. When a vacancy occurs among the officers or members of the committee, it shall be filled in the same manner as the original appointment.

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 substitution persons who are known to the executive director to be interested in rules that are scheduled for review at the meeting, and inform of the substitution persons who inquire of the executive director concerning the meeting.

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

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

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

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

Sec. 101.352. If the joint committee on agency rule review becomes aware that an agency subject to its jurisdiction is relying upon a principle of law or policy that, under section 121.93 of the Revised Code, should have been supplanted by its restatement in a rule, the chairperson of the joint committee, in the chairperson's sole discretion, may request the agency to appear before the joint committee to address why, notwithstanding section 121.93 of the Revised Code, it is so relying. The request shall specify the time and place at which a designee of the agency is to appear before the joint committee to address, and to answer the joint committee's questions concerning, the agency's reliance. The date set for the appearance shall be not earlier than thirty days after the joint committee transmits the request to the agency. The joint committee shall transmit the request to the agency electronically. The joint committee also shall publish the request on its web site, as part of the relevant meeting agenda, and shall indicate in conjunction with the published request that any person is invited to appear before the joint committee when the agency appears to offer and make comments to the joint committee concerning the agency's reliance.

Upon receiving the request, the agency shall designate a suitable agency officer or employee

to appear on behalf of the agency before the joint committee as directed in the request. The agency electronically shall notify the joint committee of the name, title, telephone number, and electronic mail address of the officer or employee who has been designated to appear before the joint committee in response to the request.

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

After the appearance has concluded, the joint committee, by vote of a majority of its members, in writing may recommend to the agency that it supplant the principle of law or policy that it is relying upon by its restatement in a rule. The joint committee shall support its recommendation with a brief rationale of why, under section 121.93 of the Revised Code, the principle of law or policy should be supplanted by its restatement in a rule. The joint committee shall transmit the recommendation electronically to the agency.

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

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

Sec. 101.353. If the joint committee on agency rule review becomes aware, such as through its own inquiries or by receiving complaints from interested parties or stakeholders, that an agency subject to its jurisdiction is required expressly or impliedly by a statute to adopt a rule but appears neither to have done so nor to have commenced the rule-making process, the chairperson of the joint committee, in the chairperson's sole discretion, may request the agency to appear before the joint committee to address its apparent dereliction. The request shall specify the time and place at which a designee of the agency is to appear before the joint committee to address, and answer the joint committee's questions concerning, the agency's apparent dereliction. The request shall identify the statute that expressly or impliedly requires rule-making and that apparently has not been complied with. The joint committee shall transmit the request to the agency electronically. The joint committee also shall publish the request on its web site, and shall indicate in conjunction with the published request that any person is invited to appear before the joint committee when the agency appears to offer and make comments to the joint committee concerning the agency's apparent dereliction.

Upon receiving the request, the agency shall designate a suitable agency officer or employee to appear on behalf of the agency before the joint committee as directed in the request. The agency

electronically shall notify the joint committee of the name, title, telephone number, and electronic mail address of the officer or employee who has been designated to appear before the joint committee in response to the request.

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

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

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

The legislative service commission shall, ~~pursuant to~~ under section 111.15 of the Revised Code, adopt, amend, and rescind any rules that are necessary to provide a uniform administrative code; to provide standards for use by the director in determining whether to include in the administrative code the full text of, or a reference to, any rule filed with the commission; to permit the director to discharge the director's duties and exercise the director's powers as described in this section; and to permit the director to discharge the director's duties and exercise the director's powers with respect to establishing and maintaining, and enhancing and improving, the electronic rule-filing system under section 103.0511 of the Revised Code.

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

- (1) Whether the rule applies uniformly to all citizens of the state;
- (2) Whether the rule applies uniformly to all political subdivisions of the state;
- (3) Whether the rule affects the health, welfare, and safety of the citizens of the state;
- (4) Whether the rule applies only to the internal affairs of the agency adopting the rule;
- (5) The number of persons affected by the rule;
- (6) Whether the rule affects the statutory or constitutional rights of any person.

The director or the director's designee shall accept any rule that is filed under section 111.15; or 119.04; ~~4141.14, or 5703.14~~ of the Revised Code. If the director or the director's designee accepts a rule that is not in compliance with the rules of the commission, the director shall give notice of the

noncompliance in electronic form to the agency that filed the rule within thirty days after the date on which the rule is filed. The notice shall indicate why the rule does not comply with the rules of the commission and how the rule can be brought into compliance. The failure of the director to give an agency notice within the thirty-day period ~~shall~~ presumptively establish ~~establishes~~ that the rule complies with the rules of the commission.

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

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

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

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

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

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

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

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

(C) The director may prepare and publish the code, or contract with any person under this division to prepare and publish the code. Any code published under this division shall include all of the requirements of division (B) of this section. In addition, the director shall furnish any code or supplement published under this division to any person who requests the code or supplement upon payment of a charge established by the director, not to exceed the cost of preparation and publication.

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

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

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

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

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

(D) The several publishers of the Administrative Code;

(E) The common sense initiative office; and

(F) Any other person or governmental officer or entity whose inclusion in the system is required for the system to be a complete electronic rule-filing system.

The electronic rule-filing system is to enable rules and rule-making and rule-related documents to be filed, and official responses to these filings to be made, exclusively by electronic means.

Sec. 106.021. If, upon reviewing a proposed rule or revised proposed rule, the joint committee on agency rule review makes any of the following findings with regard to the proposed rule or revised proposed rule, the joint committee may recommend to the senate and house of representatives the adoption of a concurrent resolution to invalidate the proposed rule or revised proposed rule or a part thereof:

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

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

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

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

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

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

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

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

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

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

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

(2) "Rule" includes the adoption, amendment, or rescission of a rule.

(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.

(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.

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:

(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;

(2) The Ohio Administrative Code rule number of the proposed rule;

(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 rule;

(4) An estimate, in dollars, of the amount by which the proposed rule would increase or decrease revenues or expenditures during the current biennium;

(5) A citation identifying the appropriation that authorizes each expenditure that would be necessitated by the proposed rule;

(6) A summary of the estimated cost of compliance with the rule to all directly affected persons;

(7) The reasons why the rule is being proposed;

(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;

(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;

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

(11) If the rule incorporates a text or other material by reference, and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is generally available to persons who reasonably can be

~~expected to be affected by the rule, an explanation of how the text or other material is generally available to those persons;~~

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

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

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

The rule summary and fiscal analysis form, instead of or in addition to the foregoing, may solicit any other information the joint committee on agency rule review considers necessary to make the proposed rule or the fiscal effect of the proposed rule fully understandable.

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

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

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

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

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

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

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

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

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

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

(c) If the rule has been exempted in whole or in part from sections 121.71 to 121.74 of the

Revised Code on grounds the incorporated text or other material has one or more of the characteristics described in division (B) of section 121.75 of the Revised Code, whether the incorporated text or other material actually has any of those characteristics.

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

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

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

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

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

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

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

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

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

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

(A)(1) If, considering only the standard of review specified in division (A)(6) of section 106.03 of the Revised Code, the rule has an adverse impact on businesses, the agency shall prepare a business impact analysis that describes its review of the rule under that division and that explains why the regulatory intent of the rule justifies its adverse impact on businesses. If the rule does not have an adverse impact on businesses, the agency may proceed under division (B) of this section.

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

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

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

section 106.03 of the Revised Code.

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

(B) The agency shall assign a new review date to the rule. The review date assigned shall be not later than five years after the immediately preceding review date pertaining to the rule. If the agency assigns a review date that exceeds the five-year maximum, the review date is five years after the immediately preceding review date. The immediately preceding review date includes the date of the review of a rule under section 106.032 of the Revised Code.

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

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

(D) The joint committee shall publish notice of the agency's determination not to amend or rescind the rule in the register of Ohio for four consecutive weeks after the rule is filed under division (C) of this section.

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

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

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

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

(a) The citation accompanying the incorporation by reference is not such as reasonably would enable a reasonable person to whom the rule applies readily and without charge to find and inspect

the incorporated text or other material:

(b) The citation accompanying the incorporation by reference is not such as reasonably would enable the joint committee readily and without charge to find and inspect the incorporated text or other material; or

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

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

When the joint committee recommends that a rule be invalidated, the recommendation does not suspend operation of the rule, and the rule remains operational pending action by the senate and house of representatives on the concurrent resolution embodying the recommendation. If the senate and house of representatives adopt the concurrent resolution, the rule is invalid. If, however, the senate and house of representatives do not adopt the resolution, the rule continues in effect, and shall next be reviewed according to the new review date assigned to the rule.

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

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

Upon receiving the order, the agency shall comply with the order as soon as reasonably possible, but shall commence compliance with the order not later than thirty days after the date on which the order was transmitted.

When an agency complies with the order, proceedings are to be had with regard to the

existing rule under section 106.031 of the Revised Code, the same as if the agency had made a determination with regard to the existing rule under division (B)(2) of section 106.03 of the Revised Code. In addition to the standards of review stated in division (E) of section 106.031 of the Revised Code, the joint committee may recommend to the senate and house of representatives the adoption of a concurrent resolution invalidating the existing rule if the joint committee finds that the existing rule has an unintended or unexpected effect on businesses that is not reasonably within the express or implied scope of the statute under which the agency purportedly adopted the existing rule.

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

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

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

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

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

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

(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 state, the director of the legislative service commission, and the joint committee on agency rule review. The emergency rule is effective immediately upon completion of the latest filing, except that if the agency in adopting the emergency rule designates an effective date, or date and time of day, that is later than the effective date and time provided for by division (B)(2) of this section, the emergency rule if filed as required by such division shall become effective at the later date, or later date and time of day, designated by the agency.

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

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

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

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

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

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

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

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) of this section shall be recorded by

the secretary of state and the director under the title of the agency adopting the rule and shall be numbered according to the numbering system devised by the director. The secretary of state and the director shall preserve the rules in an accessible manner. Each such rule shall be a public record open to public inspection and may be transmitted to any law publishing company that wishes to reproduce it.

(D) At least sixty-five days before a board, commission, department, division, or bureau of the government of the state files a rule under division (B)(1) of this section, it shall file the full text of the proposed rule in electronic form with the joint committee on agency rule review, and the proposed rule is subject to legislative review and invalidation under section 106.021 of the Revised Code. If a state board, commission, department, division, or bureau makes a revision in a proposed rule after it is filed with the joint committee, the state board, commission, department, division, or bureau shall promptly file the full text of the proposed rule in its revised form in electronic form with the joint committee. A state board, commission, department, division, or bureau shall also file the rule summary and fiscal analysis prepared under section ~~127.18~~106.024 of the Revised Code in electronic form along with a proposed rule, and along with a proposed rule in revised form, that is filed under this division. If a proposed rule has an adverse impact on businesses, the state board, commission, department, division, or bureau also shall file the business impact analysis, any recommendations received from the common sense initiative office, and the associated memorandum of response, if any, in electronic form along with the proposed rule, or the proposed rule in revised form, that is filed under this division.

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

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

This division does not apply to any of the following:

- (1) A proposed rule of an emergency nature;
- (2) A rule proposed under section 1121.05, 1121.06, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised Code;
- (3) A rule proposed by an agency other than a board, commission, department, division, or bureau of the government of the state;
- (4) A proposed internal management rule of a board, commission, department, division, or bureau of the government of the state;
- (5) Any proposed rule that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a federally reimbursed program in this state, so long as the proposed rule contains both of the following:
  - (a) A statement that it is proposed for the purpose of complying with a federal law or rule;
  - (b) A citation to the federal law or rule that requires verbatim compliance.
- (6) An initial rule proposed by the director of health to impose safety standards and quality-

of-care standards with respect to a health service specified in section 3702.11 of the Revised Code, or an initial rule proposed by the director to impose quality standards on a facility listed in division (A) (4) of section 3702.30 of the Revised Code, if section 3702.12 of the Revised Code requires that the rule be adopted under this section;

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

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

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

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

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

The public notice shall include:

- (1) A statement of the agency's intention to consider adopting, amending, or rescinding a rule;
- (2) A synopsis of the proposed rule, amendment, or rule to be rescinded or a general statement of the subject matter to which the proposed rule, amendment, or rescission relates;
- (3) A statement of the reason or purpose for adopting, amending, or rescinding the rule;
- (4) The date, time, and place of a hearing on the proposed action, which shall be not earlier than the thirty-first nor later than the fortieth day after the proposed rule, amendment, or rescission is filed under division (B) of this section.

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

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

(B) The full text of the proposed rule, amendment, or rule to be rescinded, accompanied by the public notice required under division (A) of this section, shall be filed in electronic form with the secretary of state and with the director of the legislative service commission. (If in compliance with this division an agency files more than one proposed rule, amendment, or rescission at the same time, and has prepared a public notice under division (A) of this section that applies to more than one of the proposed rules, amendments, or rescissions, the agency shall file only one notice with the

secretary of state and with the director for all of the proposed rules, amendments, or rescissions to which the notice applies.) The proposed rule, amendment, or rescission and public notice shall be filed as required by this division at least sixty-five days prior to the date on which the agency, in accordance with division (E) of this section, issues an order adopting the proposed rule, amendment, or rescission.

If the proposed rule, amendment, or rescission 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.

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

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

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

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

The director of the legislative service commission shall publish in the register of Ohio the full text of the original and each revised version of a proposed rule, amendment, or rescission; the full text of a public notice; the full text of a rule summary and fiscal analysis; and the full text of a hearing report that is filed with the director under this division.

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

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

under this division.

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

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

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

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

This division does not apply to:

- (1) An emergency rule, amendment, or rescission;
- (2) A proposed rule, amendment, or rescission that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a federally reimbursed program in this state, so long as the proposed rule contains both of the following:
  - (a) A statement that it is proposed for the purpose of complying with a federal law or rule;
  - (b) A citation to the federal law or rule that requires verbatim compliance.

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

(D) On the date and at the time and place designated in the notice, the agency shall conduct a public hearing at which any person affected by the proposed action of the agency may appear and be heard in person, by the person's attorney, or both, may present the person's position, arguments, or contentions, orally or in writing, offer and examine witnesses, and present evidence tending to show that the proposed rule, amendment, or rescission, if adopted or effectuated, will be unreasonable or unlawful. An agency may permit persons affected by the proposed rule, amendment, or rescission to present their positions, arguments, or contentions in writing, not only at the hearing, but also for a reasonable period before, after, or both before and after the hearing. A person who presents a position or arguments or contentions in writing before or after the hearing is not required to appear at the

hearing.

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

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

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

(E) After divisions (A), (B), (C), and (D) of this section have been complied with, and when the time for legislative review under sections 106.02, 106.022, and 106.023 of the Revised Code has expired without adoption of a concurrent resolution to invalidate the proposed rule, amendment, or rescission, the agency may issue an order adopting the proposed rule or the proposed amendment or rescission of the rule, consistent with the synopsis or general statement included in the public notice. At that time the agency shall designate the effective date of the rule, amendment, or rescission, which shall not be earlier than the tenth day after the rule, amendment, or rescission has been filed in its final form as provided in section 119.04 of the Revised Code.

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

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

The emergency rule, amendment, or rescission shall become invalid at the end of the one hundred twentieth day it is in effect. Prior to that date the agency may adopt the emergency rule, amendment, or rescission as a nonemergency rule, amendment, or rescission by complying with the procedure prescribed by this section for the adoption, amendment, and rescission of nonemergency rules. The agency shall not use the procedure of this division to readopt the emergency rule,

amendment, or rescission so that, upon the emergency rule, amendment, or rescission becoming invalid under this division, the emergency rule, amendment, or rescission will continue in effect without interruption for another one-hundred-twenty-day period, except when section 106.02 of the Revised Code prevents the agency from adopting the emergency rule, amendment, or rescission as a nonemergency rule, amendment, or rescission within the one-hundred-twenty-day period.

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

(H) Rules adopted by an authority within the department of job and family services for the administration or enforcement of Chapter 4141. of the Revised Code or of the department of taxation shall be effective without a hearing as provided by this section if the statutes pertaining to such agency specifically give a right of appeal to the board of tax appeals or to a higher authority within the agency or to a court, and also give the appellant a right to a hearing on such appeal. This division does not apply to the adoption of any rule, amendment, or rescission by the tax commissioner under division (C)(1) or (2) of section 5117.02 of the Revised Code, or deny the right to file an action for declaratory judgment as provided in Chapter 2721. of the Revised Code from the decision of the board of tax appeals or of the higher authority within such agency.

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

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

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

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

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

(B) Except as otherwise provided in division (E) of this section, when proposed legislation dealing with environmental protection or containing a component dealing with environmental protection is referred to a committee of the general assembly, other than a committee on rules or reference, the sponsor of the legislation, at the time of the first hearing of the legislation before the committee, shall submit to the members of the committee a written statement identifying either the documentation that is the basis of the legislation or the federal requirement or requirements with which the legislation is intended to comply. If the legislation is not based on documentation or has not been introduced to comply with a federal requirement or requirements, the written statement from the sponsor shall so indicate.

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

At any hearing of the legislation before the committee, a representative of any state agency, environmental advocacy organization, or consumer advocacy organization or any private citizen may

present documentation containing an estimate of the monetary and other costs to public health and safety and the environment and to consumers and residential utility customers, and the effects on property values, if the legislation is not enacted.

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

(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 division, the documentation considered under division (D)(2) of this section;

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

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

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

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

The information or documentation submitted under division (D)(4) of this section may be in

the form of a summary or index of available knowledge or information and shall consist of or be based upon the best available generally accepted knowledge or information in the appropriate fields, as determined by the agency that prepared the documentation.

(E) The statement required under division (B) and the information or documentation required under division (D) of this section need not be prepared or submitted with regard to a proposed statute or rule, or an amendment to a rule, if the statute, rule, or amendment is procedural or budgetary in nature, or governs the organization or operation of a state agency, and will not affect the substantive rights or obligations of any person other than a state agency or an employee or contractor of a state agency.

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

(G) This section applies only to the following:

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

(2) Rules and rule amendments dealing with environmental protection that 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 after March 5, 1996.

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

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

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

Sec. 121.72. An agency incorporates a text or other material into a rule by reference when it ~~states~~ refers in the rule that ~~a to the~~ to the text or other material ~~not contained in the rule is to be treated as if it were contained spelled out or otherwise reproduced in the rule. The agency shall explain in the rule how persons who reasonably can be expected to be affected by the rule can obtain copies of the text or other material that has been incorporated by reference. As part of the explanation, the agency shall state whether the incorporated text or other material is or is to be deposited in depository libraries or is or is to be displayed on a web site. If the text or other material incorporated by reference was, is, or reasonably can be expected to be subject to change, the agency, as part of the explanation, shall identify, and specify the date of, the particular edition or other version of the text or other material that is incorporated by reference. The agency shall accompany the incorporation by reference with a citation that provides information sufficient to enable a reasonable person to whom the rule applies readily and without charge to find and inspect the text or other material that has been incorporated by reference. The citation shall specify the date of the text or other material or identify a particular edition or version of the text or other material and, if available, the date of the particular edition or version. The citation may include a web site address to the text or other material and may include other information that will enable the text or other material to be found readily and without charge.~~

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

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

~~Sec. 121.73. 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.~~

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

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

~~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.~~

~~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.~~

~~(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.~~

~~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.~~

~~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:~~

~~(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~~

~~(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.~~

~~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:

- (a) A section of the United States Code;
- ~~(B)~~ (b) An uncodified federal statute, if it has been appended as a legislative note to a section in the United States Code;
- ~~(C)~~ (c) A federal act in the Statutes at Large;
- ~~(D)~~ (d) A federal regulation in the Federal Register or Code of Federal Regulations; or
- ~~(E) A text or other material, including, without limitation, generally accepted industry standards, that is generally available to persons who reasonably can be expected to be affected by the rule.~~
- (e) A federal regulation in the Federal Register.

An agency that incorporates a text by reference into a rule under division (A)(2) of this section shall specify the date of the text that is being incorporated by reference.

(B) Sections 121.71 to 121.74 of the Revised Code do not apply to the incorporation by reference into a rule of a text or other material insofar as the text or other material has any of the following characteristics:

- (1) It addresses the internal management of an agency;
- (2) It obtains or maintains authorization of a federally delegated program in this state;
- (3) It addresses or provides for the receipt of federal funds by the state under a federally funded program;
- (4) It is a form to be filled out or a digital application into which data is entered to fill out a form or its equivalent, but only if the form or application merely collects information and does not establish principles of law or policy;
- (5) It states or restates federal legislative or administrative conclusions, such as interest rates or poverty levels, that are readily ascertainable from reliable sources, and that are not reasonably susceptible to state legislative or administrative variation;
- (6) It states or restates generally accepted commercial, industrial, building, fire, plumbing,

electrical, safety, or other codes or standards that are readily available to or ascertainable by the persons the standards are likely to affect; or

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

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

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

- (1) Assert the general and uniform operation of the principle of law or policy;
- (2) Make the principle of law or policy more readily available to the public;
- (3) Make the principle of law or policy more readily available to persons who specifically are affected by the principle of law or policy;
- (4) Enable the principle of law or policy to be better known in advance of its application;
- (5) Enable greater public participation in improvement and further development of the principle of law or policy;
- (6) Enable greater participation by persons specifically affected by the principle of law or policy in the improvement and further development of the principle of law or policy;
- (7) Make the principle of law or policy more easily understandable; or
- (8) Make the principle of law or policy more readily available to those legally charged with monitoring or reviewing the agency's operations.

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

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

law or policy. The agency lawfully may improve or develop further the supplanted principle of law or policy as it is restated in a rule.

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

(D) A principle of law or policy that is relied upon directly or by clear implication from a statute applying to the agency does not need to be supplanted by rule.

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

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

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

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

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

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

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

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

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

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

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

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

(A) The following elected state officers or their offices: the governor, the lieutenant governor, the secretary of state, the auditor of state, the treasurer of state, and the attorney general;

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

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

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

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

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

department of commerce.

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

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

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

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

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

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

Sec. 742.10. The board of trustees of the Ohio police and fire pension fund may sue and be sued, plead and be impleaded, contract and be contracted with, employ and fix the compensation of employees, and adopt rules for the proper administration and management of the fund.

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

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

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

Sec. 1707.20. (A)(1) The division of securities may adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out sections 1707.01 to 1707.45 of the Revised Code, including rules and forms governing registration statements, applications, and reports, and defining any terms, whether or not used in sections 1707.01 to 1707.45 of the Revised Code, insofar as the definitions are not inconsistent with these sections. For the purpose of rules and forms, the division

may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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

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

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

(1) The form and content of financial statements required under sections 1707.01 to 1707.45 of the Revised Code;

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

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

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

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

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

(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 entire time 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;
- (7) Establish research and demonstration projects;
- (8) Accept, hold, invest, reinvest, or otherwise use gifts to further vocational rehabilitation services;
- (9) For the purposes of the business enterprise program administered under sections 3304.28 to 3304.35 of the Revised Code:
  - (a) Establish and manage small business entities owned or operated by individuals who are blind;

(b) Purchase insurance;

(c) Accept computers.

(10) Enter into contracts and other agreements for the provision of vocational rehabilitation services.

(D) The executive director, by rule adopted under Chapter 119. of the Revised Code, shall establish a fee schedule for vocational rehabilitation services in accordance with 34 C.F.R. 361.50.

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.

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

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

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

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

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

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

Sec. 3375.01. A state library board is hereby created to be composed of five members to be appointed by the state board of education. One member shall be appointed each year for a term of five years. No one is eligible to membership on the state library board who is or has been for a year

previous to appointment a member of the state board of education. A member of the state library board shall not during the member's term of office be a member of the board of library trustees for any library in any subdivision in the state. Before entering on official duties, each member shall subscribe to the official oath of office. All vacancies on the state library board shall be filled by the state board of education by appointment for the unexpired term. The members shall receive no compensation, but shall be paid their actual and necessary expenses incurred in the performance of their duties or in the conduct of authorized board business, within or without the state.

At its regular meeting next prior to the beginning of each fiscal biennium, the state library board shall elect a president and vice-president each of whom shall serve for two years or until a successor is elected and qualified.

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

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

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

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

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

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

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

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

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

(I) Upon application of any private corporation or library association maintaining a free

public library prior to September 4, 1947, and in accordance with Chapter 119. of the Revised Code, define, amend, and adjust the boundaries of a library district for the private corporation or library association for the sole purpose of preventing or eliminating areas of overlap with other library districts in relation to tax levies described in sections 5705.19, 5705.191, and 5705.21 of the Revised Code that are or may be levied in support of the private corporation or library association;

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

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

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

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

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

Sec. 5505.04. (A)(1) The general administration and management of the state highway patrol retirement system and the making effective of this chapter are hereby vested in the state highway patrol retirement board. The board may sue and be sued, plead and be impleaded, contract and be contracted with, and do all things necessary to carry out this chapter.

The board shall consist of the following members:

- (a) The superintendent of the state highway patrol;
- (b) Two retirant members who reside in this state;
- (c) Five employee-members;
- (d) One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and who shall have the following qualifications:

- (i) The member is a resident of this state.
- (ii) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

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

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

- (e) Two investment expert members, who shall be appointed to four-year terms. One investment expert member shall be appointed by the governor, and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the

senate. Each investment expert member shall have the following qualifications:

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

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

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

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

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

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

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

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

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

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

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a

court holding a hearing under that section.

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

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

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

(3) At the written request of any nonprofit organization or association providing services to retirement system members, retirants, or beneficiaries, the board shall provide to the organization or association a list of the names and addresses of members, former members, retirants, or beneficiaries if the organization or association agrees to use such information solely in accordance with its stated purpose of providing services to such individuals and not for the benefit of other persons, organizations, or associations. The costs of compiling, copying, and mailing the list shall be paid by such entity.

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

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

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

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of an employee member or retirant member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

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

(8) The system may provide information requested by the United States social security administration, United States centers for medicare and medicaid, public employees retirement system, Ohio public employees deferred compensation program, Ohio police and fire pension fund,

school employees retirement system, state teachers retirement system, or Cincinnati retirement system.

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

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

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

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

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

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. S. B. No. 221

132nd G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_