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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

S.B. 1
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 1's Bill Analysis](#)

Version: As Passed by the House

Primary Sponsors: Sens. McColley and Roegner

Local Impact Statement Procedure Required: No

Jason Glover, Budget Analyst, and other LBO staff

Highlights

- The bill may increase state agency administrative costs to review rules for potential amendment or rescission and prepare annual progress reports in meeting the bill's target of a 30% reduction in regulatory restrictions over three years. Any such costs may vary widely by agency depending on the scale of work and the staff resources state agencies use to accomplish the bill's required tasks.
- Staffing costs for the GRF-funded Joint Committee on Agency Rule Review (JCARR) will increase if JCARR hires an additional staff member to assist state agencies in revising inventories of regulatory restrictions and to report on the progress of agencies in meeting the bill's targets. Actual costs will depend on the committee's workload and the position and work schedule for which the potential new employee is hired.
- Legislative Information Systems workload will increase to modify the existing Electronic Rule-Filing (ERF) System to house the inventory and reporting system and to develop and maintain a website to allow the public to request information from and communicate with JCARR about regulatory restrictions. The ERF System modifications will be accomplished with existing staff resources.

Detailed Analysis

Reduction of regulatory restrictions

H.B. 166 of the 133rd General Assembly required 27 state agencies¹ to review their existing rules to prepare a base inventory of regulatory restrictions by December 31, 2019. In addition, through June 30, 2023, H.B. 166 prohibits an agency from adopting any new regulatory restriction unless it simultaneously removes two or more existing regulatory restrictions. The base inventory contains over 155,000 regulatory restrictions within nearly 10,000 rules. The bill further requires state agencies, using certain criteria specified by the bill, to reduce the total number of their regulatory restrictions by 30% over calendar years 2020, 2021, and 2022 in 10% annual increments. The table below summarizes the base inventory and the bill's reduction targets across all 27 agencies. As the table shows, over 46,500 regulatory restrictions are targeted for elimination under the bill. A listing of each covered agency's regulatory restrictions and reduction target is provided in the Appendix at the end of this fiscal note.

Base Inventory of Regulatory Restrictions and S.B. 1 Reduction Target Summary			
Number of Rules with Restrictions	Number of Regulatory Restrictions	Target Number of Restrictions (S.B. 1)	Restrictions to be Eliminated (S.B. 1)
9,944	155,073	108,551	46,522

If an agency fails to meet a reduction goal within 120 days of the deadline, the bill requires the Joint Committee on Agency Rule Review (JCARR) to give the agency an opportunity to appear to show cause why the agency's required reduction should be lessened. If JCARR determines that the agency has shown cause, JCARR must determine a lessened required reduction for that agency and must submit a written report to the Speaker of the House and the President of the Senate, indicating the lessened required reduction in regulatory restrictions for that agency and the reason JCARR determined that lessened reduction.

Any fiscal effects associated with the elimination of regulatory restrictions will depend on the particular rules each agency amends or rescinds to comply with the bill. The administrative workload of the covered state agencies, particularly those with the largest number of restrictions, will increase to review rules for potential amendment or rescission and to prepare required annual progress reports until the required reduction in regulatory restrictions are achieved. Notably, these reports must include an explanation of how the agency applied certain criteria to determine which rules to amend or rescind and a revised inventory. The cost for this work may vary widely depending on the number of rules an agency must review and the staff resources it uses to accomplish the bill's required tasks.

The bill tasks JCARR with assisting state agencies in their efforts to comply with the bill and reporting on the state's progress toward the bill's goals. Each state agency must send

¹ Covered state agencies essentially include all cabinet-level departments, as well as the Department of Education, State Lottery Commission, Ohio Casino Control Commission, State Racing Commission, and the Public Utilities Commission of Ohio.

JCARR its revised inventory of regulatory restrictions along with a report of its progress until the agency has met the reduction target. In addition, the Common Sense Initiative (CSI) office may also review any rule containing a regulatory restriction and may require the state agency to eliminate it, potentially increasing the CSI office's administrative workload. If the state agency objects to the CSI office's determination, it may appeal to JCARR.

JCARR indicated that its additional workload under the bill may require the hiring of another staff member but it is unclear whether that staff member would be full time or part time. Actual costs will depend on the committee's workload and the position and work schedule for which the potential new employee is hired. JCARR's current staff of four is supported by the GRF.

Inventory system and website creation and maintenance

The bill requires JCARR, in consultation with Legislative Information Systems (LIS), to create and maintain a system for agencies to use to create inventories, enter regulatory restriction data, and transmit copies of inventories, reports, and other documents to JCARR and to the Speaker of the House of Representatives and the President of the Senate. LIS staff expect to leverage the existing Electronic Rule-Filing (ERF) System in establishing the inventory system, though the ERF System modifications are likely to require significant development time. According to LIS, these modifications will be completed using current staff resources given the current economic environment.

Additionally, JCARR and LIS are required to establish, maintain, and improve the "Cut Red Tape System," which must include a website to allow the public to request information from and communicate with JCARR about regulatory restrictions. Developing this website likely increases LIS's workload further. JCARR's administrative responsibilities will increase to respond to the public's information requests, the extent of which will depend on the volume of communication with the public.

Director of Health orders and rules

The bill prohibits any order issued by the Director of Health from being effective for more than 14 days, unless JCARR approves an extension. In addition, the bill specifies that any order the Director issued on or after April 29, 2020, ceases to be effective 14 days after the bill takes effect, unless JCARR approves an extension. The Ohio Department of Health (ODH) would realize an increase in administrative costs to seek such an extension. There could be other impacts to local and state governments. However, the impacts would depend on the number and scope of the orders in place and whether or not the Director sought and received an extension.

The bill allows the Director of Health to make certain public health rules only in accordance with the Administrative Procedure Act, and prohibits the Director from adopting emergency rules. ODH could experience an increase in administrative costs for rule promulgations.

It appears likely that JCARR can utilize existing staff and resources to absorb any additional work and related costs incurred to review requests from the Director of Health to extend an order for more than 14 days. Prior to the current COVID-19 epidemic, the issuing of orders by the Director was relatively infrequent.

The bill gives any Ohio citizen standing to seek a court order requiring the Director of Health to comply with the bill's orders and rules provisions. The request would likely be filed in a court of common pleas, generally the Franklin County Court of Common Pleas. Such filings are likely to be relatively infrequent such that the courts are likely to absorb utilizing existing staff and resources.

Appendix

Base Inventory of Regulatory Restrictions and S.B. 1 Restriction Reduction Targets by Agency				
Agency	Number of Rules with Restrictions	Number of Regulatory Restrictions	Target Number of Restrictions (S.B. 1)	Restrictions to be Eliminated (S.B. 1)
Environmental Protection	1,226	26,123	18,286	7,837
Public Utilities Commission	632	22,627	15,839	6,788
Health	767	13,637	9,546	4,091
Job and Family Services	870	10,004	7,003	3,001
Public Safety	663	9,602	6,721	2,881
Commerce	725	9,235	6,465	2,771
Natural Resources	890	8,747	6,123	2,624
Workers' Compensation	333	8,290	5,803	2,487
Agriculture	716	7,571	5,300	2,271
Racing Commission	578	6,718	4,703	2,015
Medicaid	327	6,260	4,382	1,878
Education	301	3,652	2,556	1,096
Insurance	114	3,324	2,327	997
Developmental Disabilities	119	2,828	1,980	848
Mental Health & Addiction Services	168	2,792	1,954	838
Rehabilitation & Correction	215	2,644	1,851	793
Aging	143	1,842	1,289	553
Taxation	174	1,538	1,077	461
Administrative Services	274	1,507	1,055	452
Youth Services	93	1,286	900	386
Casino Control Commission	223	1,204	843	361

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Agency	Number of Rules with Restrictions	Number of Regulatory Restrictions	Target Number of Restrictions (S.B. 1)	Restrictions to be Eliminated (S.B. 1)
Development Services	136	992	694	298
Higher Education	61	895	627	269
Transportation	91	886	620	266
Lottery Commission	83	531	372	159
Budget and Management	8	283	198	85
Veterans Services	14	55	39	17
Total	9,944	155,073	108,551	46,522