



William J. Heaphy, III

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 13**

123rd General Assembly  
(As Introduced)

**Reps. Mottley, Harris, Buchy, Van Vyven, Schuring, Krebs, Hood, Opfer, Terwilleger, Olman, Cates, Calvert, Sullivan, Young**

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### **BILL SUMMARY**

- Requires, under certain circumstances, that the Legislative Budget Office (LBO) include in its fiscal analyses of bills or resolutions, and that certain agencies include in their fiscal analyses of proposed rules, information explaining the economic impact of the bill, resolution, or proposed rule on Ohio businesses.
- Establishes procedures to allow a rule-making agency to revise and refile an incomplete or inaccurate economic impact analysis with the Joint Committee on Agency Rule Review (JCARR).
- Permits JCARR to request, under certain circumstances, a rule-making agency to provide it with an up-to-date economic impact analysis.
- Requires, under certain circumstances, LBO and rule-making agencies to prepare specified "small business" economic analyses of bills, resolutions, or proposed rules.

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### **CONTENT AND OPERATION**

#### **Ohio business economic impact analysis**

##### **Existing law**

**Legislative Budget Office.** Current law requires that if a bill (or apparently a "resolution") introduced in the General Assembly appears to affect the revenues or expenditures of the state or a county, municipal corporation, township, school district, or other governmental entity of the state, the Ohio Legislative Budget Office (LBO) must prepare a fiscal analysis of the bill or resolution. The fiscal analysis has to be prepared before the bill or resolution is recommended for

passage by the House or Senate committee to which it was referred and again before the bill or resolution is taken up for final consideration by either house of the General Assembly. Current law also specifies how copies of the fiscal analysis must be distributed and requires certain governmental entities to provide information to LBO whenever they are requested to do so in connection with the preparation of a fiscal analysis. (Sec. 103.14.)

**Rule-making agencies.** Current law also requires each rule-making agency to prepare a specified summary and fiscal analysis of each rule it proposes, that is for consideration by the Joint Committee on Agency Rule Review (JCARR). Among other items, that analysis must include a summary of the estimated cost of compliance with the rule to all directly affected persons, including specified Ohio political subdivisions if the rule has a fiscal effect on them. (Sec. 127.18(B).)

### **Changes proposed by the bill**

**Legislative Budget Office.** The bill requires that if a bill or resolution introduced in the General Assembly has a fiscal effect on Ohio businesses, the chairperson of the standing committee or standing subcommittee in either house of the General Assembly to which the bill or resolution is referred may request that the fiscal analysis prepared by LBO include an *economic impact analysis*. That chairperson's request must be submitted to the chairperson of the standing committee in the same house that has jurisdiction over matters of finance. Then the finance chairperson must determine whether to approve the request, taking into consideration both of the following: (1) the likelihood, in the finance chairperson's opinion, that the bill would have a significant economic impact on Ohio businesses, and (2) the workload and budgetary limitations of LBO. Upon approving such a request, the finance chairperson must direct the Director of LBO to include an economic impact analysis in the fiscal analysis prepared for that bill or resolution. (Sec. 103.14(D).)

**Rule-making agencies.** The bill provides that if the director of a rule-making agency or the Governor determines that a proposed rule may have a significant economic impact on Ohio businesses, the summary and fiscal analysis prepared by the agency must include an economic impact analysis. In addition, JCARR may require that an economic impact analysis be prepared as part of the summary and fiscal analysis for *each proposed rule* of any rule-making agency, or may inform a rule-making agency that it requires an economic impact analysis as part of the summary and fiscal analysis for *any particular proposed rule*. (Sec. 127.18(B)(11) and (12).)



**Form of either economic impact analysis.** An economic impact analysis prepared under the bill must consist of all of the following information (secs. 103.14(E) and 127.18(A)(4)):

(1) An estimate of the amount by which the bill, resolution, or proposed rule would increase or decrease the revenues or expenditures of Ohio businesses;

(2) The bill's, resolution's, or proposed rule's impact on Ohio competitiveness as indicated by its effect on a business that, because of any of the following factors, has the ability to relocate to another state at relatively low cost because of an unfavorable change in the taxation or business climate in the state in which it is currently located:

- (a) Ease of mobility due to a relatively low quantity of fixed capital;
- (b) The availability of a suitable labor force;
- (c) Its location relative to its customers.

In determining the bill's, resolution's, or proposed rule's impact on Ohio competitiveness, LBO or the rule-making agency involved must compare the bill, resolution, or proposed rule with similar laws and regulations that affect businesses in other states, if any, and determine whether the bill, resolution, or proposed rule would make Ohio more lenient, less lenient, or about the same as other states with regard to the regulation of similar businesses.

(3) *For bills or resolutions only*, the "small business" information described under "**Small business economic impact analysis**," below.

(4) For bills, resolutions, and proposed rules, any other information LBO or the rule-making agency considers necessary to explain the bill's, resolution's, or proposed rule's fiscal effect on Ohio businesses.

### **Small business economic impact analysis**

#### **Existing law**

Current law provides that if an agency intends to adopt a rule and reasonably believes that the proposed rule, if adopted, will be likely to affect *individuals, small businesses, or small organizations*, the agency must prepare, in addition to meeting other statutory requirements, a complete and accurate *rule summary and fiscal analysis* of the original version of the proposed rule for consideration by JCARR. Both the proposed rule and the summary and fiscal analysis are public records open to public inspection. For purposes of these



provisions, "small business" is defined as an independently owned and operated business having fewer than 400 employees. (Sec. 121.24(A)(9), (B)(1), and (C).)

### **Changes proposed by the bill**

The bill requires a rule-making agency to include in its latter fiscal analysis of the original version of a proposed rule and requires LBO to include in its economic impact analysis of a bill or resolution (see "**Ohio business economic impact analysis**," above) an analysis of the impact of the proposed rule, bill, or resolution on the ability of a small business to become established and grow during the first three years of its operation (secs. 103.14(E)(2) and 121.24(B)(1)).

### **Revision and refiling of an incomplete or inaccurate economic impact analysis; updating the economic impact analysis**

#### **Revisions and refiling**

**Existing law.** Current law allows JCARR to recommend the adoption of a concurrent resolution invalidating a "proposed rule, amendment, rescission, or part thereof" if it finds, among other things, that the rule-making agency has failed to prepare a *complete and accurate* rule summary and fiscal analysis of the proposed rule, amendment, or rescission. It also provides that, in lieu of recommending a concurrent resolution to invalidate a proposed rule, amendment, rescission, or part thereof because a rule-making agency has failed to prepare a complete and accurate fiscal analysis, JCARR may issue, *on a one-time basis*, for rules, amendments, rescissions, or parts thereof that have a fiscal effect on certain political subdivisions, a written finding that the rule summary and fiscal analysis is incomplete or inaccurate and order the rule-making agency to *revise* the rule summary and fiscal analysis and *refile it* with the proposed rule, amendment, rescission, or part thereof. In addition, if an *emergency rule is filed as a nonemergency rule* before the 90th day of the emergency rule's effectiveness, and JCARR issues a finding and orders the rule-making agency to refile, the Governor also may issue a written order stating that the emergency rule shall remain in effect for an additional 60 days after the 90th day of the emergency rule's effectiveness; current law also specifies procedures that govern the filing of the Governor's written orders. Finally, JCARR must send the rule-making agency involved, the Secretary of State, and the Director of the Legislative Service Commission a certified copy of an order to revise and refile a rule summary and fiscal analysis, which must take immediate effect. (Sec. 119.03(I)(1) and (4).)

**Changes proposed by the bill.** The bill additionally permits JCARR, in lieu of recommending a concurrent resolution to invalidate a proposed rule, amendment, rescission, or part thereof, to issue, *on a one-time basis*, a written



finding that a rule's *economic impact analysis* (when required under the bill) is incomplete or inaccurate and order the rule-making agency to revise it in the particular rule summary and fiscal analysis and refile it with the proposed rule, amendment, rescission, or part thereof. The procedures governing such a revision and refile are generally similar to the procedures described in the preceding paragraph for rules, amendments, rescissions, or parts thereof that have a fiscal effect on certain political subdivisions. The bill also provides that, if JCARR has determined to issue a finding under the procedures of current law regarding rules with a fiscal effect on certain political subdivisions, it may include its findings under the procedures established by the bill in its findings and order issued under the procedures established by current law, but it may issue only one finding and order under either of these procedures for each proposed rule, amendment, rescission, or part thereof. (Sec. 119.03(I)(5).)

**Updates**

Current law requires JCARR to review any "rule, amendment, or rescission" *as filed in final form* if it finds that the rule-making agency has made a substantive revision between the time the agency filed the latest version of the rule, amendment, or rescission in proposed form and the time it filed the rule, amendment, or rescission in final form. The bill, while retaining these provisions, also permits JCARR to request the rule-making agency to provide it with an up-to-date economic impact analysis. (Sec. 119.031(B) and (C).)

**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	01-20-99	p. 86

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