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Bill Analysis

Legislative Service Commission

H.B. 243

126th General Assembly
(As Introduced)

Reps. Hood, Brinkman, Wagner, Gilb, Seaver, Law, Faber, Buehrer, Willamowski, Reidelbach, Fessler, Taylor, Raussen, Hagan, Hoops, Widener, Wagoner, Schaffer

BILL SUMMARY

- Requires the Legislative Service Commission to prepare a family impact statement to assess the effect of proposed legislation on family formation, maintenance, and well-being before the General Assembly takes certain actions on the legislation.
- Requires certain state agencies to include in their rule summaries and fiscal analyses an assessment of the impact of the rule on family formation, maintenance, and well-being.

CONTENT AND OPERATION

Family impact statements on proposed legislation

Content of a family impact statement

Under the bill, if a bill introduced in the General Assembly appears to affect families, the Ohio Legislative Service Commission (LSC) must prepare, before the bill is recommended for passage by the House of Representatives committee or Senate committee to which it was referred and again before the bill is taken up for final consideration by either house of the General Assembly, an analysis of the bill, known as a family impact statement, that assesses its impact on families (R.C. 103.147(B)). A "family" is defined as any of the following: two persons related by marriage who reside in the same household, two or more persons related by blood or adoption who reside in the same household, or two persons related by blood or adoption if one of them is dependent on the other for the majority of the dependent person's financial support (R.C. 103.147(A) and 121.24(A)(4)).

A family impact statement must include an assessment of the bill's impact on family formation, maintenance, and well-being and must consider the bill's effect on all of the following (R.C. 103.147(B)):

- The stability of the family or marital commitment.
- The authority of parents in the education, nurture, and supervision of their children.
- The performance of family functions or whether the effect of the bill substitutes for a family function.
- The increase or decrease in family earnings and whether the bill's proposed benefits justify its impact on the family budget.
- The ability of a lower level of government or the family itself to carry out the bill's purposes.

Distribution of family impact statement

LSC must distribute copies of a family impact statement as follows: (1) two copies to the chairperson, together with a copy for each member of the committee, for consideration by the House or Senate Rules committee or the standing committee to which the bill is referred and (2) one copy to the member who introduced the bill, if the member is not a member of the House or Senate committee considering it. For final consideration, LSC must publish the family impact statement on its web site. The clerk of the house of the General Assembly considering the bill must upload the family impact statement to each member's personal computer located on the House or Senate floor. (R.C. 103.147(C).) Further, the House Clerk and Senate Clerk must provide copies of a bill's family impact statement to any person upon request (R.C. 103.147(E)).

Effect of failure to prepare a family impact statement

The failure to prepare a family impact statement before a bill is taken up for consideration by a House or Senate committee, or by either or both houses for final consideration, does not affect the validity of the bill if it is passed by either or both houses of the General Assembly (R.C. 103.147(D)).

Adoption and review of administrative rules affecting families

Assessment of an administrative rule's impact on families

In general. Under current law, if an agency required to adopt rules under the Administrative Procedure Act (which requires a public hearing and public

notice on proposed rules) or under R.C. 111.15 (which does not require a public hearing or public notice on proposed rules) intends to adopt a rule that it reasonably believes will be likely to affect small businesses (an independently owned and operated business with fewer than 400 employees), small organizations (unincorporated associations, sheltered workshops, and nonprofit enterprises with fewer than 400 employees), or the officers or employees of either of these (referred to as "individuals"), the agency must prepare a complete and accurate rule summary and fiscal analysis (RSFA) of the *original version* of the proposed rule (R.C. 121.24(A)(1), (6), (7), (9), (10), and (11) and (B)(1)). Under the bill, if such an agency intends to adopt a rule that it reasonably believes will be likely to affect *families*, an RSFA also must be prepared of the original version of the rule which assesses its impact on family formation, maintenance, and well-being, considering basically the same criteria as must be used under the bill in preparing a family impact statement for legislation. (R.C. 121.24(B)(1).)

The bill further requires an agency to carefully consider concerns related to families, small businesses, small organizations, and the officers or employees of the latter entities *in adopting a rule*, in issuing notice of proposed rulemaking, and in *holding public hearings* and meetings on proposed rules (R.C. 121.24(B)(2)).

Comments and testimony. The chairperson of *any* standing committee of the Senate or House of Representatives having jurisdiction over families, and any other person having an interest in the proposed rule, is permitted to submit comments in electronic form to the agency, the Joint Committee on Agency Rule Review (JCARR), or both during the period that commences with the date the original version of the rule is filed and ends 40 days thereafter. The comments must concern the expected effect of the rule upon families. The agency and JCARR also are required to accept timely submitted written comments of that nature. The agency cannot file the proposed rule in final form until it has considered the comments, identified the issues raised by them, assessed the rule in light of the issues, and made revisions as the agency considers advisable in light of its assessment. (R.C. 121.24(B)(4)(a) and (5).)

The chairperson of *any* Senate or House committee mentioned above is authorized to request that a representative of the agency appear before the committee and testify, answer questions from members of the committee, and produce information in the agency's possession concerning the expected effect of the rule upon families. On receipt of such a request, the agency must designate an officer or employee to appear before the committee, and otherwise comply with the request, in the manner directed by the request. (R.C. 121.24(B)(4)(b).)

After an agency complies with these requirements regarding the original version of a proposed rule, it does not have to repeat the process if it revises the rule prior to filing it in final form (R.C. 121.24(B)(5)).

Periodic review of rules that affect families

One review procedure. Current law requires certain state agencies to *assign dates for review* of each of their rules subject to review by JCARR and notify JCARR of the review dates. A review must occur at least once each five years. The purpose of a review is to determine whether a rule (1) should be continued without amendment, be amended, or be rescinded, (2) needs amendment or rescission to give more flexibility at the local level or to eliminate unnecessary paperwork, and (3) duplicates, overlaps, or conflicts with other rules. Current law, however, exempts the following from the review requirement: (1) the Department of Taxation's rules, (2) a rule of a state college or university, community college district, technical college district, or state community college, and (3) a rule that is consistent with and equivalent to the form required by a federal law and does not exceed the minimum scope and intent of the federal law. (R.C. 119.032--not in the bill.)

Special review procedure. Current law further requires each "agency" to prepare a *plan for the periodic review*, at least once every five years, of each of its rules, other than those subject to review under the procedure mentioned above, that affects small businesses, small organizations, or the officers or employees of either of these. The bill establishes identical review requirements for such rules that affect families. Thus, each agency must prepare a plan for the periodic review, at least once every five years, of each rule that affects families and is not otherwise subject to review under the procedure mentioned above. The purpose of a periodic review of this type is to determine whether a rule, consistent with the purpose, scope, and intent of the authorizing statute, should continue without change or be amended or rescinded, so as to minimize its *economic impact* on families. (R.C. 121.24(D).)

Each agency must report annually to the Governor and General Assembly with regard to each of its rules reviewed under the bill's "family" provisions during the preceding calendar year. A report is to include the Administrative Code number of each of the rules, a brief summary of the content and operation of the rules, and a brief summary of the results of the review. If an agency is required to make another annual report to the Governor and General Assembly, it must report the information required by the bill in an appropriately designated section of the report. Otherwise, the information must be provided in a separate report (in electronic form) due not later than the first day of each February. The agency also must submit a copy of the report in electronic form to the chairpersons of the standing committees of the Senate and House of Representatives having jurisdiction over families. (R.C. 121.24(D).)

Providing persons rules and other documents

Current law requires each agency to designate an individual or office within the agency to do one of the following within ten days after receiving a request from any person concerning a proposed rule that would affect small businesses, small organizations, or the officers or employees of either of these: (1) provide the person with a copy of the rule, (2) provide the person with its RSFA, or (3) find, collate, and make available to the person any information in the possession of the agency regarding the rule that would be of interest to small businesses, small organizations, or the officers or employees of either of these. An agency must inform the Office of Small Business in the Department of Development, in writing, of the name, address, and telephone number of the designated individual or office and promptly inform the Office of any change in that information. (R.C. 121.24(E).)

The bill requires individuals or offices designated by agencies to also provide copies of *rules or RSFAs* that would affect families, upon request, within ten days (R.C. 121.24(E)).

Special provision regarding the Department of Taxation

Current law requires the Department of Taxation to provide in electronic form to the Office of Small Business a copy of the full text of any rule the Department proposes that may affect any business. The bill eliminates the "electronic form" aspect of the latter requirement and additionally requires the Department to provide a copy of the full text of any rule it proposes that may affect any family to JCARR. (R.C. 121.24(G).)

Certain rules exempted

With respect to rule adoption, review, and copy provision, neither current law (concerning small businesses, small organizations, and the officers and employees of either of these) nor the bill's proposals (concerning families) applies to any of the following (R.C. 121.24(A)(9)):

(1) A rule adopted by the Superintendent of Financial Institutions that grants banks, trust companies, savings and loan associations, or savings banks a right, power, privilege, or benefit equivalent to that held by other institutions;

(2) A rule governing the internal management of an agency that does not affect private rights;

(3) A rule authorized by law to be issued as a temporary written order;

(4) A rule or order, whether of a quasi-legislative or quasi-judicial nature, proposed by the Public Utilities Commission of Ohio (PUCO). However, a PUCO rule or order that determines a rate of a public utility to be just and reasonable is subject to current law and the bill, unless it contains findings that the public utility, in applying for approval of the rate, stated facts and grounds sufficient for the PUCO to determine that the proposed rate was just and reasonable.

(5) A proposed rule, the adoption of which is mandated by a federal law or rule and which must be adopted substantially as prescribed by federal law or rule, to become effective within 120 days of adoption, as long as the history trail of the proposed rule contains a statement that it is proposed for the purpose of complying with a federal law or rule and a citation to the federal law or rule that mandates substantial compliance.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-05-05	p. 757

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