

AN ACT

To amend sections 106.022, 111.15, 119.03, 2743.03, 3701.13, 3701.14, 3707.01, 3707.26, 3715.74, and 4935.03 and to enact sections 101.36, 103.65, 103.651, 107.42, 107.43, 3707.11, 3707.54, 3709.212, and 3709.50 of the Revised Code to establish legislative oversight of certain orders and rules issued by the executive branch, including by establishing the Ohio Health Oversight and Advisory Committee.

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

SECTION 1. That sections 106.022, 111.15, 119.03, 2743.03, 3701.13, 3701.14, 3707.01, 3707.26, 3715.74, and 4935.03 be amended and sections 101.36, 103.65, 103.651, 107.42, 107.43, 3707.11, 3707.54, 3709.212, and 3709.50 of the Revised Code be enacted to read as follows:

Sec. 101.36. (A)(1) If the department of health issues a special or standing order or rule for preventing the spread of contagious or infectious disease under section 3701.13 of the Revised Code, the general assembly may rescind that special or standing order or rule, in whole or in part, by adopting a concurrent resolution.

(2) If the director of health takes an action to control and suppress the cause of disease or illness, including contagious, infectious, epidemic, pandemic, or endemic conditions, under section 3701.14 of the Revised Code, the general assembly may rescind that action, in whole or in part, by adopting a concurrent resolution.

(3) If the general assembly rescinds a special or standing order or rule or an action by the department of health, in whole or in part, pursuant to division (A)(1) or (2) of this section, the department shall not reissue that special or standing order or rule or rescinded portion thereof, issue a substantially similar special or standing order or rule or rescinded portion thereof, take that action or rescinded portion thereof or a substantially similar action or portion thereof again, or issue a restriction contained in the rescinded special or standing order or rule, rescinded action, or portion thereof, for a period of sixty calendar days following the adoption of a concurrent resolution by the general assembly.

(B) Within sixty calendar days of the general assembly rescinding a special or standing order or rule or action under division (A)(1) or (2) of this section, the governor, on behalf of the department of health or director of health, may submit a request to the general assembly to permit the department or director to issue a special or standing order or rule, or take an action, rescinded by the general assembly. Upon review, the general assembly may adopt a concurrent resolution authorizing the department or director to issue that rescinded special or standing order or rule or take that rescinded action, in whole or in part.

(C) A special or standing order or rule issued, or action taken, by the department or director in

violation of this section is invalid and has no legal effect.

Sec. 103.65. (A) There is hereby created the Ohio health oversight and advisory committee. The committee shall consist of the following members:

(1) Three members of the senate appointed by the president of the senate, two of whom are members of the majority party and one of whom is a member of the minority party;

(2) Three members of the house of representatives appointed by the speaker of the house of representatives, two of whom are members of the majority party and one of whom is a member of the minority party.

(B) The president and speaker shall make the initial appointments to the committee not later than fifteen calendar days after the effective date of this section. The president and speaker shall make subsequent appointments not later than fifteen calendar days after the commencement of the first regular session of each general assembly. Members of the committee shall serve on the committee until appointments are made in the first regular session of the following general assembly, until a member no longer serves as a member of the chamber from which the member was initially appointed, or until a member is removed by the speaker or president. No committee member shall be removed during the member's term during a state of emergency as defined in section 107.42 of the Revised Code, unless an extraordinary circumstance exists that prevents a member from serving on the committee. A vacancy on the committee shall be filled in the same manner as the original appointment.

(C) In odd-numbered years, the president shall designate one committee member from the senate who is a member of the majority party as the committee chairperson, and the speaker shall designate one committee member from the house who is a member of the majority party as the committee vice-chairperson and one committee member from the house who is a member of the minority party as the committee ranking minority member. In even-numbered years, the speaker shall designate one committee member from the house who is a member of the majority party as the committee chairperson, and the president shall designate one committee member from the senate who is a member of the majority party as the committee vice-chairperson and one committee member from the senate who is a member of the minority party as the committee ranking minority member.

(D) In appointing members from the minority party, and in designating ranking minority members, the president and speaker shall consult with the minority leader of their respective houses.

(E) The Ohio health oversight and advisory committee shall meet at the call of the chairperson.

(F) The executive director and other employees of the joint medicaid oversight committee shall serve the Ohio health oversight and advisory committee to enable the committee to successfully and efficiently perform its duties.

Sec. 103.651. (A) As used in this section, "state of emergency" has the same meaning as in section 107.42 of the Revised Code.

(B)(1) The Ohio health oversight and advisory committee has the power to do all of the following:

(a) Oversee actions taken by the governor, the department of health, or any other agency during a state of emergency;

(b) Oversee the following actions taken by the department or the director of health:

(i) Actions to prevent the spread of contagious or infectious diseases under section 3701.13 of the Revised Code;

(ii) Actions to investigate or make inquiry and to take prompt action to control and suppress the cause of disease or illness including contagious, infectious, epidemic, pandemic, or endemic conditions under section 3701.14 of the Revised Code;

(c) Consult with and provide advice to the governor, the department, and other agencies regarding necessary and appropriate action during a state of emergency.

(2) The committee chairperson, when authorized by the committee, the president of the senate, and the speaker of the house of representatives, may issue subpoenas and subpoenas duces tecum to assist the committee in performing its duties. A subpoena or subpoena duces tecum shall be issued, served, and returned, and has consequences, as specified in sections 101.41 to 101.45 of the Revised Code.

Sec. 106.022. If the joint committee on agency rule review makes a finding with regard to a proposed rule under section 106.021 of the Revised Code, and also finds that it nevertheless would be worthwhile to afford the agency an opportunity to revise the proposed rule, the joint committee, as an alternative to recommending the adoption of a concurrent resolution to invalidate the proposed rule, may authorize the agency to revise and refile the proposed rule and rule summary and fiscal analysis. The joint committee shall issue the authorization in writing. In the authorization, the joint committee shall explain the finding that, but for the authorization, would have resulted in a recommendation of invalidation, and shall explain why the joint committee has found it nevertheless to be worthwhile to afford the agency an opportunity to revise the proposed rule. The joint committee shall transmit the authorization electronically to the agency, the secretary of state, the director of the legislative service commission, and, if the proposed rule is to replace an emergency rule, the governor.

When the joint committee approves such an authorization, the running of the time within which a concurrent resolution invalidating the proposed rule may be adopted is tolled until the thirty-first day after the day on which the authorization was approved. If, during the tolling period, the agency revises and refiles the proposed rule, the time within which a concurrent resolution invalidating the proposed rule may be adopted resumes running and expires on the thirty-first day after the day the proposed rule was refiled. But if, during the tolling period, the agency neither withdraws nor revises and refiles the proposed rule, the time within which a concurrent resolution invalidating the proposed rule may be adopted resumes running and expires on the thirty-first day after the day the tolling period ended.

Upon receiving the authorization, the agency may revise the proposed rule and rule summary and fiscal analysis, and then refile the revised proposed rule and rule summary and fiscal analysis electronically with the joint committee.

If the joint committee makes any of the findings outlined in section 106.021 of the Revised Code with regard to the revised proposed rule and rule summary and fiscal analysis, the joint committee may recommend the adoption of a concurrent resolution to invalidate the proposed rule under section 106.021 of the Revised Code. The joint committee may issue only one authorization with regard to the same proposed rule.

If Except as provided in section 107.43 of the Revised Code, if the proposed rule that is the

subject of an authorization is to replace an emergency rule, the governor may issue an order extending the emergency rule for an additional one hundred twenty days after the day on which the emergency rule otherwise would become invalid. The governor shall transmit the order electronically to the agency, the joint committee, and the director of the legislative service commission.

Sec. 107.42. (A) As used in this section:

"Declaration of a state of emergency" means any order, proclamation, or other action of the governor that creates a state of emergency.

"State of emergency" means the period of time between when the governor declares any emergency and the expiration of that emergency, including an air pollution emergency under section 3704.032 of the Revised Code, an energy shortage emergency under section 4935.03 of the Revised Code, and an adulterated consumer product emergency under section 3715.74 of the Revised Code.

(B) A state of emergency declared by the governor shall exist for not more than ninety calendar days unless extended by the general assembly as provided in division (C) of this section. An amendment to a declaration of a state of emergency, declaration of a substantially similar state of emergency, or reissuance of any part of an initial declaration of a state of emergency shall not be considered a new declaration of a state of emergency.

(C) The general assembly may extend a state of emergency for up to an additional sixty calendar days by adopting a concurrent resolution. The general assembly continuously may extend a state of emergency by adopting subsequent concurrent resolutions, but no extension may last longer than sixty calendar days. If the general assembly does not extend a state of emergency, the governor shall not issue a declaration of an identical or substantially similar state of emergency, or issue a declaration of a state of emergency with any part of the initial declaration of a state of emergency, for at least sixty calendar days following the expiration of the state of emergency, except as provided in division (E) of this section.

(D)(1) After a state of emergency declared by the governor has been in effect for thirty calendar days, the general assembly may terminate the state of emergency by adopting a concurrent resolution. A state of emergency terminated under this division is invalid and has no legal effect.

(2) If the general assembly terminates a state of emergency under this section, the governor shall not issue a declaration of an identical or substantially similar state of emergency, or issue a declaration of a state of emergency with any part of the initial declaration of the state of emergency, for at least sixty calendar days after the general assembly adopts the concurrent resolution, except as provided in division (E) of this section.

(E) Within sixty calendar days of a state of emergency terminating by operation of law under division (B) of this section, or by action of the general assembly under division (D)(1) of this section, the governor may submit a request to the general assembly to authorize the governor to issue a declaration of an identical or substantially similar state of emergency, or issue a declaration of a state of emergency with any part of the initial declaration of the state of emergency. Upon review, the general assembly may adopt a concurrent resolution authorizing the request.

(F) A declaration of a state of emergency in violation of this section is invalid and has no legal effect.

Sec. 107.43. (A) As used in this section:

"Administrative department" means a department listed under section 121.02 of the Revised

Code.

"Administrative department head" means a department head listed under section 121.03 of the Revised Code.

"Internal management rule" means any rule, regulation, or standard governing the day-to-day staff procedures and staff operations within an administrative department or state agency, or within the office of an administrative department head or statewide elected officer.

"Rule" means, unless the context dictates otherwise, any rule, regulation, or standard adopted, promulgated, and enforced by a statewide elected officer, administrative department, administrative department head, or state agency under the authority of the laws governing such officer, department, department head, or state agency. "Rule" does not include an internal management rule.

"State agency" means any organized body, office, agency, commission, board, institution, or other entity established by the laws of the state for the exercise of any function of state government.

"State agency" does not include a court.

"State of emergency" has the meaning defined in section 107.42 of the Revised Code.

"Statewide elected officer" means the governor, lieutenant governor, secretary of state, auditor of state, attorney general, and treasurer of state.

(B) Beginning the day the governor declares a state of emergency, the governor and the department of health promptly shall report to the president of the senate and the speaker of the house of representatives every action the governor or department takes in response to the state of emergency, including actions by the department or director of health under sections 3701.13 and 3701.14 of the Revised Code.

(C)(1) If the governor declares a state of emergency, the general assembly may do any of the following by adopting a concurrent resolution:

(a) Rescind, in whole or in part, any order or rule issued or adopted by an administrative department, administrative department head, state agency, or statewide elected officer in response to a state of emergency, including an order to authorize an agency to adopt, amend, or rescind rules under division (G) of section 119.03 of the Revised Code. This division does not apply to an order issued to declare a state of emergency.

(b) Invalidate, in whole or in part, an emergency rule adopted or amended by an agency in response to the state of emergency and pursuant to an emergency order the governor issues under division (G)(1) of section 119.03 of the Revised Code;

(c) Authorize a rule rescinded by an agency under division (G)(1) of section 119.03 of the Revised Code in response to the state of emergency to be readopted, in whole or in part;

(d) Invalidate, in whole or in part, an emergency rule adopted by an agency in response to the state of emergency pursuant to division (B)(2) of section 111.15 of the Revised Code.

(2) If the general assembly rescinds an order or rule, or a portion thereof, the administrative department, administrative department head, state agency, or statewide elected officer shall not reissue that order or rule, the rescinded portion, a substantially similar order, rule, or portion, or any restriction contained in the rescinded order or rule or rescinded portion, for a period of sixty calendar days following the adoption of the concurrent resolution by the general assembly, except as provided in division (C)(3) of this section.

(3)(a) Within sixty calendar days of the general assembly rescinding an order or rule under

division (C)(1) of this section, the governor, on behalf of an administrative department, an administrative department head, or a state agency, may submit a request to the general assembly to authorize an administrative department, an administrative department head, or a state agency to reissue a rescinded order or rule, rescinded portion thereof, a substantially similar order, rule, or portion, or any restriction contained in the rescinded order or rule or rescinded portion issued or adopted by an administrative department, administrative department head, or state agency. Upon review, the general assembly may adopt a concurrent resolution authorizing the request, in whole or in part.

(b) Within sixty calendar days of the general assembly rescinding an order or rule under division (C)(1) of this section, a statewide elected officer may submit a request to the general assembly to reissue a rescinded order or rule, rescinded portion thereof, a substantially similar order, rule, or portion, or any restriction contained in the rescinded order or rule or rescinded portion issued or adopted by the statewide elected officer. Upon review, the general assembly may adopt a concurrent resolution authorizing the request, in whole or in part.

(D)(1) Notwithstanding any other provision of the Revised Code, a person who challenges an order or rule adopted by an administrative department, administrative department head, state agency, or statewide elected officer that is issued or adopted in response to a state of emergency, in a civil action for damages, declaratory judgment, injunctive relief, or other appropriate relief may do so in an appropriate court located in the county where the person's residence or business is located.

(2) If a person successfully challenges an order or rule adopted by an administrative department, administrative department head, state agency, or statewide elected officer that is issued or adopted in response to a state of emergency, the administrative department, administrative department head, state agency, or statewide elected officer shall pay the person's reasonable attorney's fees and court costs.

(E) An order or rule issued or adopted in violation of this section is invalid and has no legal effect.

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 121.75 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~~ Except as provided in section 107.43 of the Revised Code, 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.

The adoption of an emergency rule under division (B)(2) of this section in response to a state of emergency, as defined under section 107.42 of the Revised Code, may be invalidated by the general assembly, in whole or in part, by adopting a concurrent resolution in accordance with section 107.43 of the Revised Code.

(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 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 health care facility as defined in 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 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 121.75 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 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 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.
- (3) A proposed rule, amendment, or rescission that, as set forth in section 3719.41 of the Revised Code, must be adopted by the state board of pharmacy pursuant to federal law or rule, to

become effective within sixty days of adoption, so long as the proposed rule contains a statement that it is proposed for the purpose of complying with federal law or rule.

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)(1) 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.

Except as provided in division (G)(2) of this section, or section 107.43 of the Revised Code, 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 division (G)(1) of this section to readopt the emergency rule, amendment, or rescission so that, upon the emergency rule, amendment, or rescission becoming invalid under division (G)(1) of this section, 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.

Division (G)(1) of this section 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.

(2) An emergency rule or amendment adding a substance to a controlled substance schedule shall become invalid at the end of the one hundred eightieth day it is in effect. Prior to that date, the state board of pharmacy may adopt the emergency rule or amendment as a nonemergency rule or amendment by complying with the procedure prescribed by this section for adoption and amendment of nonemergency rules. The board shall not use the procedure of division (G)(1) of this section to readopt the emergency rule or amendment so that, upon the emergency rule or amendment becoming invalid under division (G)(2) of this section, the emergency rule or amendment will continue in effect beyond the one-hundred-eighty-day period.

(3) The general assembly, by adopting a concurrent resolution, and in accordance with section 107.43 of the Revised Code, may do either of the following:

(a) Invalidate, in whole or in part, an emergency rule adopted or amended by an agency in response to a state of emergency, as defined under section 107.42 of the Revised Code, under division (G)(1) of this section;

(b) Authorize an agency to readopt, in whole or in part, a rule that was rescinded in response to a state of emergency under division (G)(1) of this section.

(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. 2743.03. (A)(1) There is hereby created a court of claims. ~~The Except as provided under section 107.43 of the Revised Code, the~~ court of claims is a court of record and has exclusive, original jurisdiction of all civil actions against the state permitted by the waiver of immunity contained in section 2743.02 of the Revised Code and exclusive jurisdiction of the causes of action of all parties in civil actions that are removed to the court of claims. The court shall have full equity powers in all actions within its jurisdiction and may entertain and determine all counterclaims, cross-claims, and third-party claims.

(2) If the claimant in a civil action as described in division (A)(1) of this section also files a claim for a declaratory judgment, injunctive relief, or other equitable relief against the state that arises out of the same circumstances that gave rise to the civil action described in division (A)(1) of this section, the court of claims has exclusive, original jurisdiction to hear and determine that claim in that civil action. This division does not affect, and shall not be construed as affecting, the original jurisdiction of another court of this state to hear and determine a civil action in which the sole relief that the claimant seeks against the state is a declaratory judgment, injunctive relief, or other equitable relief.

(3) In addition to its exclusive, original jurisdiction as conferred by divisions (A)(1) and (2) of this section, the court of claims has exclusive, original jurisdiction as follows:

(a) As described in division (F) of section 2743.02, division (B) of section 3335.03, and division (C) of section 5903.02 of the Revised Code;

(b) Under section 2743.75 of the Revised Code to hear complaints alleging a denial of access to public records in violation of division (B) of section 149.43 of the Revised Code, regardless of whether the public office or person responsible for public records is an office or employee of the state or of a political subdivision.

(B) The court of claims shall sit in Franklin county, its hearings shall be public, and it shall consist of incumbent justices or judges of the supreme court, courts of appeals, or courts of common pleas, or retired justices or judges eligible for active duty pursuant to division (C) of Section 6 of Article IV, Ohio Constitution, sitting by temporary assignment of the chief justice of the supreme court. The chief justice may direct the court to sit in any county for cases on removal upon a showing of substantial hardship and whenever justice dictates.

(C)(1) A civil action against the state shall be heard and determined by a single judge. Upon application by the claimant or the state, the chief justice of the supreme court may assign a panel of three judges to hear and determine a civil action presenting novel or complex issues of law or fact. Concurrence of two members of the panel is necessary for any judgment or order.

(2) Whenever the chief justice of the supreme court believes an equitable resolution of a case will be expedited, the chief justice may appoint magistrates in accordance with Civil Rule 53 to hear

the case.

(3) When any dispute under division (B) of section 153.12 of the Revised Code is brought to the court of claims, upon request of either party to the dispute, the chief justice of the supreme court shall appoint a single referee or a panel of three referees. The referees need not be attorneys, but shall be persons knowledgeable about construction contract law, a member of the construction industry panel of the American arbitration association, or an individual or individuals deemed qualified by the chief justice to serve. No person shall serve as a referee if that person has been employed by an affected state agency or a contractor or subcontractor involved in the dispute at any time in the preceding five years. Proceedings governing referees shall be in accordance with Civil Rule 53, except as modified by this division. The referee or panel of referees shall submit its report, which shall include a recommendation and finding of fact, to the judge assigned to the case by the chief justice, within thirty days of the conclusion of the hearings. Referees appointed pursuant to this division shall be compensated on a per diem basis at the same rate as is paid to judges of the court and also shall be paid their expenses. If a single referee is appointed or a panel of three referees is appointed, then, with respect to one referee of the panel, the compensation and expenses of the referee shall not be taxed as part of the costs in the case but shall be included in the budget of the court. If a panel of three referees is appointed, the compensation and expenses of the two remaining referees shall be taxed as costs of the case.

All costs of a case shall be apportioned among the parties. The court may not require that any party deposit with the court cash, bonds, or other security in excess of two hundred dollars to guarantee payment of costs without the prior approval in each case of the chief justice.

(4) An appeal from a decision of the attorney general pursuant to sections 2743.51 to 2743.72 of the Revised Code shall be heard and determined by the court of claims.

(D) The Rules of Civil Procedure shall govern practice and procedure in all actions in the court of claims, except insofar as inconsistent with this chapter. The supreme court may promulgate rules governing practice and procedure in actions in the court as provided in Section 5 of Article IV, Ohio Constitution.

(E)(1) A party who files a counterclaim against the state or makes the state a third-party defendant in an action commenced in any court, other than the court of claims, shall file a petition for removal in the court of claims. The petition shall state the basis for removal, be accompanied by a copy of all process, pleadings, and other papers served upon the petitioner, and shall be signed in accordance with Civil Rule 11. A petition for removal based on a counterclaim shall be filed within twenty-eight days after service of the counterclaim of the petitioner. A petition for removal based on third-party practice shall be filed within twenty-eight days after the filing of the third-party complaint of the petitioner.

(2) Within seven days after filing a petition for removal, the petitioner shall give written notice to the parties, and shall file a copy of the petition with the clerk of the court in which the action was brought originally. The filing effects the removal of the action to the court of claims, and the clerk of the court where the action was brought shall forward all papers in the case to the court of claims. The court of claims shall adjudicate all civil actions removed. The court may remand a civil action to the court in which it originated upon a finding that the removal petition does not justify removal, or upon a finding that the state is no longer a party.

(3) Bonds, undertakings, or security and injunctions, attachments, sequestrations, or other orders issued prior to removal remain in effect until dissolved or modified by the court of claims.

Sec. 3701.13. (A) As used in this section:

(1) "Isolation" means the separation of one or more individuals who have been medically diagnosed with a communicable or contagious disease from other individuals who have not been medically diagnosed with the disease.

(2) "Quarantine" means the separation or restriction of movement of one or more individuals who have come into direct contact with someone who has been medically diagnosed with a communicable or contagious disease.

(B)(1) The department of health shall have supervision of all matters relating to the preservation of the life and health of the people and have ultimate authority in matters of quarantine and isolation, which it may declare and enforce, when neither exists, and modify, relax, or abolish, when either has been established. The authority of the department of health under this section is superior to the authority of a board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

(2) The department may approve methods of immunization against the diseases specified in section 3313.671 of the Revised Code for the purpose of carrying out the provisions of that section and take such actions as are necessary to encourage vaccination against those diseases.

~~The (C) Subject to section 101.36 of the Revised Code, the department may make special or standing orders or rules for preventing the use of fluoroscopes for nonmedical purposes that emit doses of radiation likely to be harmful to any person, for preventing the spread of contagious or infectious diseases, for governing the receipt and conveyance of remains of deceased persons, and for such other sanitary matters as are best controlled by a general rule.~~

(D) In addition to the authority granted by division (C)(1) of this section, the department may make special or standing orders or rules for any of the following purposes:

(1) To prevent the use of fluoroscopes for nonmedical purposes that emit doses of radiation likely to be harmful to any person;

(2) To govern the receipt and conveyance of remains of deceased persons;

(3) To address such other sanitary matters as are best controlled by a general rule.

(E) Whenever possible, the department shall work in cooperation with the health commissioner of a general or city health district. The

In any of the following circumstances, the department may make and enforce orders in local matters or reassign substantive authority for mandatory programs from a general or city health district to another general or city health district: when an emergency exists, or when the board of health of a general or city health district has neglected or refused to act with sufficient promptness or efficiency, or when such board has not been established as provided by sections 3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 3709.12, and 3709.14 of the Revised Code. In such cases, the necessary expense incurred shall be paid by the general health district or city for which the services are rendered.

The department of health may require general or city health districts to enter into agreements for shared services under section 9.482 of the Revised Code. The department shall prepare and offer to boards of health a model contract and memorandum of understanding that are easily adaptable for

use by boards of health when entering into shared services agreements. The department also may offer financial and other technical assistance to boards of health to encourage the sharing of services.

As a condition precedent to receiving funding from the department of health, the director of health may require general or city health districts to apply for accreditation by July 1, 2018, and be accredited by July 1, 2020, by an accreditation body approved by the director. The director of health, by July 1, 2016, shall conduct an evaluation of general and city health district preparation for accreditation, including an evaluation of each district's reported public health quality indicators as provided for in section 3701.98 of the Revised Code.

(F) The department may make evaluative studies of the nutritional status of Ohio residents, and of the food and nutrition-related programs operating within the state. Every agency of the state, at the request of the department, shall provide information and otherwise assist in the execution of such studies.

Sec. 3701.14. (A) ~~The Subject to section 101.36 of the Revised Code, the~~ director of health shall investigate or make inquiry as to the cause of disease or illness, including contagious, infectious, epidemic, pandemic, or endemic conditions, and take prompt action to control and suppress it. The reports of births and deaths, the sanitary conditions and effects of localities and employments, the personal and business habits of the people that affect their health, and the relation of the diseases of man and beast, shall be subjects of study by the director. The director may make and execute orders necessary to protect the people against diseases of lower animals, and shall collect and preserve information in respect to such matters and kindred subjects as may be useful in the discharge of the director's duties, and for dissemination among the people. When called upon by the state or local governments, or the board of health of a general or city health district, the director shall promptly investigate and report upon the water supply, sewerage, disposal of excreta of any locality, and the heating, plumbing, and ventilation of a public building.

(B) Information obtained during an investigation or inquiry that the director currently is conducting pursuant to division (A) of this section and that is not yet complete is confidential during the course of that investigation or inquiry and shall not be released except pursuant to division (D) or (J) of this section or under one of the following conditions:

(1) The confidential information is released pursuant to a search warrant or subpoena issued by or at the request of a grand jury or prosecutor, as defined in section 2935.01 of the Revised Code.

(2) The director has entered into a written agreement to share or exchange the information with a person or government entity, and that agreement requires the person or entity to comply with the confidentiality requirements established under this section.

(3) The information is contained in a preliminary report released by the director pursuant to division (G)(1) of this section.

(C) Division (B) of this section applies during any investigation or inquiry the director makes pursuant to division (A) of this section, notwithstanding any other provision of the Revised Code that establishes the manner of maintaining confidentiality or the release of information, except that the confidentiality and release of protected health information under section 3701.17 of the Revised Code is governed by that section.

(D) Nothing in this section bars the release of information that is in summary, statistical, or aggregate form and that does not identify a person. Information that is in summary, statistical, or

aggregate form and that does not identify a person is a public record under section 149.43 of the Revised Code.

(E) Nothing in this section authorizes the director to conduct an independent criminal investigation without the consent of each local law enforcement agency with jurisdiction to conduct the criminal investigation.

(F) Except for information released pursuant to division (G) or (J) of this section, any disclosure pursuant to this section shall be in writing and accompanied by a written statement that includes the following or substantially similar language: "This information has been disclosed to you from confidential records protected from disclosure by state law. If this information has been released to you in other than a summary, statistical, or aggregate form, you shall make no further disclosure of this information without the specific, written, and informed release of the person to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is not sufficient for the release of information pursuant to this section."

(G)(1) If an investigation or inquiry the director currently is conducting pursuant to division (A) of this section is not completed within six months after the date of commencement, the director shall prepare and release a report containing preliminary findings. Every six months thereafter, the director shall prepare and release a supplementary preliminary report until such time as the investigation or inquiry is completed.

(2) Upon completion of an investigation or inquiry conducted pursuant to division (A) of this section, the director shall prepare and release a final report containing the director's findings.

(H) No report prepared by the director pursuant to this section shall contain protected health information, as defined in section 3701.17 of the Revised Code.

(I) The director shall adopt, in accordance with Chapter 119. of the Revised Code, rules establishing the manner in which the reports prepared by the director pursuant to this section are to be released.

(J) The director shall release information obtained during an investigation or inquiry that the director currently is conducting pursuant to division (A) of this section and that is not yet complete, if the director determines the release of the information is necessary, based on an evaluation of relevant information, to avert or mitigate a clear threat to an individual or to the public health. Information released pursuant to this division shall be limited to the release of the information to those persons necessary to control, prevent, or mitigate disease or illness.

Sec. 3707.01. ~~The (A)~~ As used in this chapter, "isolation" and "quarantine" have the same meanings as in section 3701.13 of the Revised Code.

(B) The board of health of a city or general health district shall abate and remove all nuisances within its jurisdiction. It may, by order, compel the owners, agents, assignees, occupants, or tenants of any lot, property, building, or structure to abate and remove any nuisance therein, and prosecute such persons for neglect or refusal to obey such orders. Except in cities having a building department, or otherwise exercising the power to regulate the erection of buildings, the board may regulate the location, ~~construction~~ construction, and repair of water closets, privies, cesspools, sinks, plumbing, and drains. In cities having such departments or exercising such power, the legislative authority, by ordinance, shall prescribe such rules and regulations as are approved by the board and shall provide for their enforcement.

The board may regulate the location, construction, and repair of yards, pens, and stables, and the use, emptying, and cleaning of such yards, pens, and stables and of water closets, privies, cesspools, sinks, plumbing, drains, or other places where offensive or dangerous substances or liquids are or may accumulate.

When a building, erection, excavation, premises, business, pursuit, matter, or thing, or the sewerage, drainage, plumbing, or ventilation thereof is, in the opinion of the board, in a condition dangerous to life or health, and when a building or structure is occupied or rented for living or business purposes and sanitary plumbing and sewerage are feasible and necessary, but neglected or refused, the board may declare it a public nuisance and order it to be removed, abated, suspended, altered, or otherwise improved or purified by the owner, agent, or other person having control thereof or responsible for such condition, and may prosecute ~~him~~ the owner, agent, or other person having control thereof for the refusal or neglect to obey such order. The board may, by its officers and employees, remove, abate, suspend, alter, or otherwise improve or purify such nuisance and certify the costs and expense thereof to the county auditor, to be assessed against the property and thereby made a lien upon it and collected as other taxes.

Sec. 3707.11. A board of health of a city or general health district, or the authority having the duties of a board of health under section 3709.05 of the Revised Code, may only issue a quarantine or isolation order under this chapter that applies to individuals who have been medically diagnosed with the disease that is the subject of the order or individuals who have come in direct contact with someone who has been medically diagnosed with the disease that is the subject of the order.

Sec. 3707.26. Semiannually, and more often, if in its judgment necessary, the board of health of a city or general health district shall inspect the sanitary condition of all schools and school buildings within its jurisdiction, and may disinfect any school building. ~~During an epidemic or threatened epidemic, or when~~ When a dangerous communicable disease is unusually prevalent and verified positive cases of the disease have been documented in a specific school building, the board may close any that specific school and prohibit public gatherings building for such time as is necessary to disinfect the building or otherwise bring that specific school building into sanitary condition.

Sec. 3707.54. Notwithstanding sections 3707.01 to 3707.53 of the Revised Code, a board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code, or any person acting on the board's or authority's behalf, may issue an order or regulation that applies only to specific persons. Any order or regulation that applies to a class of persons in violation of this section is invalid and has no legal effect. As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code.

Sec. 3709.212. Any order or regulation for the public health or for the prevention or restriction of disease issued by a board of health of a city or general health district under section 3709.20 or 3709.21 of the Revised Code may apply to only the following persons:

(A) Those who have been medically diagnosed with the disease that is the subject of the order or regulation;

(B) Those who have come in direct contact with someone who has been medically diagnosed with the disease that is the subject of the order or regulation;

(C) Those that have had a documented incident in the building of the disease that is the

subject of the order or regulation.

As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code.

Sec. 3709.50. Notwithstanding anything in this chapter, a board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code, or any person acting on the board's or authority's behalf, may issue an order or regulation that applies only to specific persons. Any order or regulation that applies to a class of persons in violation of this section is invalid and has no legal effect. As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code.

Sec. 3715.74. (A) As used in this section:

(1) "Adulterated" means adulterated as determined under section 3715.59 or 3715.63 of the Revised Code.

(2) "Consumer product" means any food or drink that is consumed by humans and any medicine, including a prescription drug, that is consumed or used by humans.

(3) "Retailer" means a place of business that offers consumer products for sale to the general public.

(B)(1) Except as provided in division (C) of this section, if the governor has a reasonable basis to believe that one or more units of a consumer product have been adulterated and that further sale or use of the consumer product presents a threat to the public health and safety, the governor may declare a ~~public health state of an adulterated consumer product~~ emergency and make any of the following executive ~~public health state of adulterated consumer product~~ emergency orders:

(a) That all units of the consumer product be removed from public display by all retailers;

(b) That no units of the consumer product be sold or offered for sale during the ~~public health state of adulterated consumer product~~ emergency;

(c) That any retailer possessing units of the consumer product segregate these units from other merchandise and hold them or a portion of them for disposition by designated law enforcement officers or officials of the department of agriculture, the department of health, or the state board of pharmacy;

(d) Any other limitations, controls, or prohibitions that the governor considers necessary regarding the manufacture, importation, sale, or transportation of the consumer product.

(2) The governor may amend or rescind any order issued under division (B)(1) of this section.

(C) If the particular type of consumer product referred to in division (B)(1) of this section is one that falls within the jurisdiction of the department of agriculture, the department of health, or the state board of pharmacy, the governor shall not declare a ~~public health state of an adulterated consumer product~~ emergency pursuant to that division unless requested to do so by the department or board that regulates the consumer product. If the governor grants the request, the department or board that made the request shall enforce the provisions of this section.

(D) ~~A public health state of emergency declared under this section shall exist for not more than sixty days unless extended by the governor for an additional thirty-day period, at which time the public health state of emergency shall end unless it is extended by a concurrent resolution adopted by both houses of the general assembly. An amendment to an executive public health state of emergency~~

~~order shall not be considered a new order.~~

~~(E)~~ Any executive ~~public health state of adulterated consumer product~~ emergency order or amended executive ~~public health state of adulterated consumer product~~ emergency order issued under this section shall be disseminated promptly by means that bring the order to the attention of the general public. The governor promptly shall file the order with the secretary of state, the department of agriculture, the department of health, and the state board of pharmacy.

~~(F)~~ ~~(E)~~ The state is not liable for removal, or for the costs of removal, of consumer products from public display in connection with an executive ~~public health state of adulterated consumer product~~ emergency order issued under division (B)(1)(a) of this section. Neither the state nor an agent of the state acting pursuant to a ~~public health state of an adulterated consumer product~~ emergency is liable for any damages or loss incurred because of any action pursuant to an executive ~~public health state of adulterated consumer product~~ emergency order of that type.

~~(G)~~ ~~(F)~~ No person shall knowingly violate an executive ~~public health state of adulterated consumer product~~ emergency order issued by the governor under this section. Whoever violates an executive ~~public health state of adulterated consumer product~~ emergency order is subject to a fine of not less than five hundred dollars. Each day a violation continues is a separate offense.

~~(H)~~ ~~(G)~~ The attorney general, at the direction of the governor or upon request of the director of agriculture, the director of health, the state board of pharmacy, or a prosecuting attorney may commence an action in a court of common pleas to enjoin a violation of an executive ~~public health state of adulterated consumer product~~ emergency order issued pursuant to this section or to compel a person to perform a duty imposed by an executive ~~public health state of adulterated consumer product~~ emergency order.

Sec. 4935.03. (A) The public utilities commission shall adopt, and may amend or rescind, rules in accordance with section 111.15 of the Revised Code, with the approval of the governor, defining various foreseen types and levels of energy emergency conditions for critical shortages or interruptions in the supply of electric power, natural gas, coal, or individual petroleum fuels and specifying appropriate measures to be taken at each level or for each type of energy emergency as necessary to protect the public health or safety or prevent unnecessary or avoidable damage to property. The rules may prescribe different measures for each different type or level of declared energy emergency, and for any type or level shall empower the governor to:

(1) Restrict the energy consumption of state and local government offices and industrial and commercial establishments;

(2) Restrict or curtail public or private transportation or require or encourage the use of car pools or mass transit systems;

(3) Order, during a declared energy emergency, any electric light, natural gas or gas, or pipeline company; any supplier subject to certification under section 4928.08 or 4929.20 of the Revised Code; electric power or gas utility that is owned by a municipal corporation or not for profit; coal producer or supplier; electric power producer or marketer; or petroleum fuel producer, refiner, wholesale distributor, or retail dealer to sell electricity, gas, coal, or petroleum fuel in order to alleviate hardship, or if possible to acquire or produce emergency supplies to meet emergency needs;

(4) Order, during a declared energy emergency, other energy conservation or emergency energy production or distribution measures to be taken in order to alleviate hardship;

(5) Mobilize emergency management, national guard, law enforcement, or emergency medical services.

The rules shall be designed to protect the public health and safety and prevent unnecessary or avoidable damage to property. They shall encourage the equitable distribution of available electric power and fuel supplies among all geographic regions in the state.

(B) The governor may, after consultation with the chairperson of the commission, declare an energy emergency by filing with the secretary of state a written declaration of an energy emergency at any time the governor finds that the health, safety, or welfare of the residents of this state or of one or more counties of this state is so imminently and substantially threatened by an energy shortage that immediate action of state government is necessary to prevent loss of life, protect the public health or safety, and prevent unnecessary or avoidable damage to property. The declaration shall state the counties, utility service areas, or fuel market areas affected, or its statewide effect, and what fuels or forms of energy are in critically short supply. An energy emergency declaration goes into immediate effect upon filing ~~and continues in effect for the period prescribed in the declaration, but not more than thirty days. At the end of any thirty-day or shorter energy emergency, the governor may issue another declaration extending the emergency. The general assembly may by concurrent resolution terminate any declaration of an energy emergency. The emergency is terminated at the time of filing of the concurrent resolution with the secretary of state.~~ When an energy emergency is declared, the commission shall implement the measures which it determines are appropriate for the type and level of emergency in effect.

(C) Energy emergency orders issued by the governor pursuant to this section shall take effect immediately upon issuance, and the person to whom the order is directed shall initiate compliance measures immediately upon receiving the order. During an energy emergency the attorney general or the prosecuting attorney of the county where violation of a rule adopted or order issued under this section occurs may bring an action for immediate injunction or other appropriate relief to secure prompt compliance. The court may issue an ex parte temporary order without notice which shall enforce the prohibitions, restrictions, or actions that are necessary to secure compliance with the rule or order. Compliance with rules or orders issued under this section is a matter of statewide concern.

(D) During a declared energy emergency the governor may use the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the maximum extent practicable and necessary to meet the energy emergency, and the officers and personnel of all such departments, offices, and agencies shall cooperate with and extend such services and facilities to the governor upon request.

(E) During an energy emergency declared under this section, no person shall violate any rule adopted or order issued under this section. Whoever violates this division is guilty of a minor misdemeanor on a first offense, and a misdemeanor of the first degree upon subsequent offenses or if the violation was purposely committed.

SECTION 2. That existing sections 106.022, 111.15, 119.03, 2743.03, 3701.13, 3701.14, 3707.01, 3707.26, 3715.74, and 4935.03 of the Revised Code are hereby repealed.

SECTION 3. (A) As used in this section:

"Administrative department," "administrative department head," "rule," "state agency," and "statewide elected officer" have the meanings defined in section 107.43 of the Revised Code.

"State of emergency" has the meaning defined in section 107.42 of the Revised Code.

(B) Any order or rule issued or adopted by an administrative department, administrative department head, state agency, or statewide elected officer in response to a state of emergency; any emergency rule or amendment adopted by an agency under division (G)(1) of section 119.03 of the Revised Code in response to a state of emergency; any emergency rule adopted by an agency under division (B)(2) of section 111.15 of the Revised Code in response to a state of emergency; and any special or standing order or rule issued by the Department of Health under section 3701.13 of the Revised Code or action taken by the Director of Health under section 3701.14 of the Revised Code, that is in effect on the effective date of this section is immediately subject to review by the Ohio Health Oversight and Advisory Committee as provided under section 103.651 of the Revised Code and rescission by the General Assembly, in whole or in part, as provided under sections 101.36 and 107.43 of the Revised Code.

(C) An emergency declaration in effect on the effective date of this section shall be subject to immediate termination by the General Assembly through the adoption of a concurrent resolution, and shall exist for not more than thirty calendar days after the effective date of this section unless extended by the General Assembly as provided in division (C) of section 107.42 of the Revised Code. If the General Assembly does not extend the state of emergency, the Governor shall not declare an identical or substantially similar state of emergency, or declare a state of emergency with any part of the initial state of emergency, for at least sixty calendar days following the expiration of the state of emergency, unless authorized by the General Assembly through the adoption of a concurrent resolution.

SECTION 4. The items of law contained in this act, and their applications, are severable. If any item of law contained in this act, or if any application of any item of law contained in this act, is held invalid, the invalidity does not affect other items of law contained in this act and their applications that can be given effect without the invalid item of law or application.

SECTION 5. Section 119.03 of the Revised Code is presented in this act as a composite of the section as amended by both S.B. 221 and S.B. 229 of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 22

134th G.A.

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____