



Ohio Revised Code

Section 106.05 Referral to common sense initiative office for determination of adverse impact on business.

Effective: September 17, 2014

Legislation: Senate Bill 3 - 130th General Assembly

(A) If the joint committee on agency rule review is reviewing a proposed or existing rule under section 106.021 or 106.031 of the Revised Code and the joint committee is uncertain whether the proposed or existing rule has an adverse impact on businesses, the joint committee electronically may refer the rule to the common sense initiative office, or if the joint committee identifies an adverse impact on businesses in the proposed or existing rule that has not been evaluated or has been inadequately evaluated in a business impact analysis previously reviewed by the common sense initiative office, the joint committee electronically may rerefer the rule to the office. The joint committee electronically may transmit a memorandum to the office along with the proposed or existing rule explaining specifically why it is referring or rereferring the rule to the office. The joint committee electronically shall notify the agency if it refers or rerefers the proposed or existing rule to the office.

Such a referral or rereferral tolls the running of the time within which the joint committee is required to recommend adoption of a concurrent resolution invalidating the proposed or existing rule. The time resumes running when the proposed or existing rule is returned to the joint committee after the referral or rereferral. The tolling does not affect the continued operation of an existing rule.

(B) The office, within thirty days after receiving a proposed or existing rule under division (A) of this section, shall evaluate or reevaluate the rule to determine whether it has an adverse impact on businesses, and shall proceed under division (C)(1) or (2) of this section as is appropriate to its determination.

(C)(1) If the office determined that the proposed or existing rule does not have an adverse impact on businesses, the office shall prepare a memorandum stating that finding. The office electronically shall transmit the memorandum to the agency, and electronically shall return the proposed or existing rule to the joint committee. The office also electronically shall transmit a copy of its



memorandum to the joint committee along with the proposed or existing rule. The joint committee may review or reject the proposed or existing rule, the same as if the rule had not been referred or rereferred to the office. If, when the proposed or existing rule is returned to the joint committee, fewer than thirty days remain in the time by which a concurrent resolution invalidating the proposed or existing rule must be recommended, the time for making such a recommendation is extended until the thirtieth day after the day on which the proposed or existing rule was returned to the joint committee.

(2) If the office determined that the proposed or existing rule has an adverse impact on businesses, the office shall prepare a memorandum stating that finding. The office electronically shall transmit the memorandum to the agency, and electronically shall transmit the memorandum and the proposed or existing rule to the joint committee. The memorandum shall identify the proposed or existing rule to which it relates.

In the case of a proposed rule, the joint committee may review or reject the proposed rule the same as if the proposed rule had not been referred or rereferred to the office. If, when the proposed rule is returned to the joint committee, fewer than thirty days remain in the time by which a concurrent resolution invalidating the proposed rule must be recommended, the time for making such a recommendation is extended until the thirtieth day after the day on which the proposed rule was transmitted to the joint committee. The agency, after considering the memorandum, may revise the proposed rule.

In the case of an existing rule, it is the same as if the agency had withdrawn the existing rule from the joint committee's jurisdiction. If the agency determines, after considering the memorandum, that the existing rule needs to be amended or rescinded, the agency shall commence the process of doing so under division (B)(1) of section 106.03 of the Revised Code. If, however, the agency determines, after considering the memorandum, that the existing rule does not need to be amended or rescinded, the agency shall proceed with periodic review of the rule under division (B)(2) of section 106.03 of the Revised Code.

When the joint committee gives notice that it is referring or rereferring a proposed or existing rule to the common sense initiative office, and when the joint committee or office transmits a memorandum to the other or to an agency, the joint committee or office also electronically shall



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transmit a copy of the notice or memorandum to the director of the legislative service commission. The director shall publish the notice or memorandum in the register of Ohio together with a notation identifying the proposed or existing rule to which the notice or memorandum relates.