



Ohio Revised Code

Section 121.39 Identifying documentation that is basis for legislation dealing with environmental protection.

Effective: September 17, 2014

Legislation: Senate Bill 3 - 130th General Assembly

(A) As used in this section, "environmental protection" means any of the following:

(1) Protection of human health or safety, biological resources, or natural resources by preventing, reducing, or remediating the pollution or degradation of air, land, or water resources or by preventing or limiting the exposure of humans, animals, or plants to pollution;

(2) Appropriation or regulation of privately owned property to preserve air, land, or water resources in a natural state or to wholly or partially restore them to a natural state;

(3) Regulation of the collection, management, treatment, reduction, storage, or disposal of solid, hazardous, radioactive, or other wastes;

(4) Plans or programs to promote or regulate the conservation, recycling, or reuse of energy, materials, or wastes.

(B) Except as otherwise provided in division (E) of this section, when proposed legislation dealing with environmental protection or containing a component dealing with environmental protection is referred to a committee of the general assembly, other than a committee on rules or reference, the sponsor of the legislation, at the time of the first hearing of the legislation before the committee, shall submit to the members of the committee a written statement identifying either the documentation that is the basis of the legislation or the federal requirement or requirements with which the legislation is intended to comply. If the legislation is not based on documentation or has not been introduced to comply with a federal requirement or requirements, the written statement from the sponsor shall so indicate.

Also at the time of the first hearing of the legislation before the committee, a statewide organization that represents businesses in this state and that elects its board of directors may submit to the



members of the committee a written estimate of the costs to the regulated community in this state of complying with the legislation if it is enacted.

At any hearing of the legislation before the committee, a representative of any state agency, environmental advocacy organization, or consumer advocacy organization or any private citizen may present documentation containing an estimate of the monetary and other costs to public health and safety and the environment and to consumers and residential utility customers, and the effects on property values, if the legislation is not enacted.

(C) Until such time as the statement required under division (B) of this section is submitted to the committee to which proposed legislation dealing with environmental protection or containing a component dealing with environmental protection was referred, the legislation shall not be reported by that committee. This requirement does not apply if the component dealing with environmental protection is removed from the legislation or if two-thirds of the members of the committee vote in favor of a motion to report the proposed legislation.

(D) Except as otherwise provided in division (E) of this section, prior to adopting a rule or an amendment proposed to a rule dealing with environmental protection or containing a component dealing with environmental protection, a state agency shall do all of the following:

- (1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment;
- (2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or amendment;
- (3) Specifically identify whether the proposed rule or amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or amendment is more stringent than its federal counterpart, and, if the proposed rule or amendment is more stringent, the rationale for not incorporating its federal counterpart;
- (4) Include with the proposed rule or amendment and the rule summary and fiscal analysis required



under section 127.18 of the Revised Code, when they are filed with the joint committee on agency rule review in accordance with division (D) of section 111.15 or division (C) of section 119.03 of the Revised Code, one of the following in electronic form, as applicable:

(a) The information identified under division (D)(3) of this section and, if the proposed rule or amendment is more stringent than its federal counterpart, as identified in that division, the documentation considered under division (D)(2) of this section;

(b) If an amendment proposed to a rule is being adopted or amended under a state statute that establishes standards with which the amendment shall comply, and the proposed amendment is more stringent than the rule that it is proposing to amend, the documentation considered under division (D)(2) of this section;

(c) If division (D)(4)(a) or (b) of this section is not applicable, the documentation considered under division (D)(2) of this section.

If the agency subsequently files a revision of such a proposed rule or amendment in accordance with division (D) of section 111.15 or division (C) of section 119.03 of the Revised Code, the revision shall be accompanied in electronic form by the applicable information or documentation.

Division (D) of this section does not apply to any emergency rule adopted under division (B)(2) of section 111.15 or division (G) of section 119.03 of the Revised Code, but does apply to any such rule that subsequently is adopted as a nonemergency rule under either of those divisions.

The information or documentation submitted under division (D)(4) of this section may be in the form of a summary or index of available knowledge or information and shall consist of or be based upon the best available generally accepted knowledge or information in the appropriate fields, as determined by the agency that prepared the documentation.

(E) The statement required under division (B) and the information or documentation required under division (D) of this section need not be prepared or submitted with regard to a proposed statute or rule, or an amendment to a rule, if the statute, rule, or amendment is procedural or budgetary in nature, or governs the organization or operation of a state agency, and will not affect the substantive



rights or obligations of any person other than a state agency or an employee or contractor of a state agency.

(F) The insufficiency, incompleteness, or inadequacy of a statement, information, documentation, or a summary of information or documentation provided in accordance with division (B) or (D) of this section shall not be grounds for invalidation of any statute, rule, or amendment to a rule.

(G) This section applies only to the following:

(1) Legislation and components of legislation dealing with environmental protection that are introduced in the general assembly after March 5, 1996;

(2) Rules and rule amendments dealing with environmental protection that are filed with the joint committee on agency rule review in accordance with division (D) of section 111.15 or division (C) of section 119.03 of the Revised Code after March 5, 1996.