



*BEFORE THE HOUSE GOVERNMENT ACCOUNTABILITY AND OVERSIGHT COMMITTEE
PROPONENT TESTIMONY ON SB 221
WEDNESDAY, JUNE 20, 2018*

Chair Blessing, Vice-Chair Reineke, Ranking Member Clyde and members of the House Government Accountability and Oversight Committee, thank you for allowing me the opportunity to testify in support of Senate Bill 221. My name is Kevin Boehner, and I am the Director of Small Business and Workforce Policy for the Ohio Chamber of Commerce.

In this role, I serve as the Director of the Ohio Small Business Council (OSBC). The Ohio Chamber, along with the OSBC, believes SB 221 is a vital next step in rule and regulatory reform. This legislation compliments and builds upon Senate Bill 2 from the 129th General Assembly as well as Senate Bill 3 from the 130th General Assembly.

The regulatory environment is extremely important to all Ohio businesses, especially small businesses. This is simply due to the fact that small businesses are often negatively impacted by rules more so than larger employers. Small businesses do not have the resources in which to interpret and implement the required changes that are often associated with the creation of agency rules.

Businesses can visit sites such as RuleWatchOhio.gov and sign-up for e-mail alerts to track rules as they go through the rulemaking process. Tools such as this are valuable for small and large businesses; however, especially in the case of small businesses, the owners are often times employees themselves and have little time to devote the time necessary to follow these rule changes.

Shortly after taking office in 2011, Gov. Kasich created, by executive order, the Common Sense Initiative (CSI). This move was strongly supported by the Ohio Chamber and OSBC, as was Senate Bill 2, which put this new CSI concept into statute. A key provision within SB 2 is the creation of a Business Impact Analysis (BIA). This required CSI to create a series of standards to be used to identify, reduce or eliminate adverse impacts on business.

There is no question that CSI is doing an effective job of reviewing proposed rules, scrutinizing their impact on businesses operating in Ohio, and encouraging easier compliance and even-handed enforcement.

In the next General Assembly, Senate Bill 3 expanded the scope of CSI as it pertains to “no change rules” that were already on the books. Under this legislation, for the first time ever, no change rules were now to be subject to the business impact analysis or review process. Until that point in time, existing rules could have been negatively impacting businesses and there was little that the business, agency, CSI or JCARR could have done to stop it.

I want to briefly highlight the key provisions of SB 221 that make this proposal such a strong bill. First, in current law, there are three elements that define if a draft or existing rule has an adverse impact on businesses. They are the following:

1. It requires a license, permit, or any other prior authorization to engage in or operate a line of business;
2. It imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action, for failure to comply with its terms; or
3. It requires specific expenditures or the report of information as a condition of compliance.

SB 221 adds a fourth criterion that states that the rule would have an adverse impact on business if it would result in the reduction of revenue or increase the expenses of the lines of business. Our members believe this will ensure that a proposed rule’s impact on business is justifiable.

The bill also requires that the source document (i.e. manuals, instructions, directions, etc.) of a new rule can be readily found and inspected without charge. We believe that this will assist businesses in their compliance efforts. If the new rule imposes a fee, the agency must provide an explanation of how the fee directly relates to the cost actually incurred by the agency in performing the function for which the fee is charged.

Additionally, it allows for the opportunity to request a review of a rule in an expedited manner before the five year review to determine if the rule has had unintended or unexpected effects on businesses. This does not serve as a guarantee that the rule will change, but at least provides the opportunity for review. Lastly, it instructs state agencies to release internal policies, directives, or instructions to ensure they are not circumventing the rulemaking process, thus attempting to curtail the practice of regulating by policy.

As it relates to rules and regulations in our state, you shouldn’t have to be an attorney to be a small business owner. It is important that the legislature works to create the best environment for businesses to thrive here in our state. SB 221 does just that and allows for businesses to spend more time providing goods and services to Ohioans and less time filling out paperwork and navigating the maze of bureaucratic red tape.

Mr. Chairman and members of the committee, I thank you again for the opportunity to testify in support of SB 221 and welcome any questions that you or members of the committee may have at this time.