

STATE OF OHIO  
*Executive Department*

OFFICE OF THE GOVERNOR

*Columbus*

VETO MESSAGE

**STATEMENT OF THE REASONS FOR THE VETO OF  
SUBSTITUTE SENATE BILL 221**

**AUGUST 2, 2018**

Pursuant to Article II, Section 16 of the Ohio Constitution, which states that the Governor may disapprove of any bill, I hereby disapprove Substitute Senate Bill 221 (SB 221) and set forth below the reasons for so doing.


The established process by which state agencies promulgate administrative rules already has multiple opportunities for interested parties and the public to have input on proposed rules before the rules become final. During my administration, we added another level of review and input to proposed rules before they become final – the Common Sense Initiative (CSI). The implementation of CSI was part of a collaborative process with the General Assembly that advanced the shared goal of reducing or streamlining regulations. In furtherance of this shared goal, CSI reviews any proposed administrative rule that has a potential impact on businesses. Since CSI became operational in 2012, approximately 60% of the proposed rules submitted to CSI for analysis were either amended before they became final or were rescinded and never implemented. By adding this front-end, stakeholder-centric engagement to Ohio's administrative rule-making process, CSI heightened the already robust review of proposed rules performed by the General Assembly's Joint Committee on Agency Rule Review (JCARR).

Substitute Senate Bill 221 (SB 221) undermines this existing process by providing JCARR with new, open-ended, undefined powers to question the effect of a rule after multiple rounds of public comment, after CSI's review, after JCARR's scrutiny, and after the rule has begun being implemented. This eliminates any sense of finality crucial to the effective enforcement of laws and denies the private sector stakeholders subject to laws any certainty regarding the regulations and requirements the General Assembly is imposing on them. Moreover, these new powers the General Assembly is giving itself are based on wholly undefined concepts. Neither the bill nor the Ohio Revised Code contains any definition or explanation as to what constitutes a "principle of law or policy" or what rises to the level of "having an unintended or unexpected effect on business".

Because SB 221 would in effect never allow an administrative rule to be “final” because it could always be re-opened in JCARR even after JCARR had already approved the supposedly final version of the rule, the bill will create uncertainty among stakeholders and the public on whether the rule should be followed. That uncertainty will cause additional burdens and impose additional costs on those who are subject to the rule. Moreover, the General Assembly already has the power and authority to pass legislation that specifically addresses any concerns it may have with already promulgated rules, and the attempt to use JCARR to supplant the natural legislative process represents an erosion of the separation of powers. Therefore, this veto is in the public interest.



IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed at Columbus this 2nd day of August, Two Thousand Eighteen.

  
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John R. Kasich, Governor

This will acknowledge the receipt of a copy of this veto Message of Substitute Senate Bill 221 that was disapproved by Governor John R. Kasich on August 2, 2018.

\_\_\_\_\_  
Name and Title of Officer

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Date and Time of Receipt