



Tax & Budget

Testimony on SB 221 before the House Government Accountability & Oversight Committee

Zach Schiller

Good afternoon, Chairman Blessing, Ranking Member Clyde and members of the committee. My name is Zach Schiller and I am research director at Policy Matters Ohio, a nonprofit, nonpartisan organization with the mission of creating a more prosperous, equitable, sustainable and inclusive Ohio. Thank you for the opportunity to testify.

Senate Bill 221 contains overreaching language which should not be permitted to become a part of Ohio law. Specifically, it would add to the rule definition of what constitutes "an adverse impact on business": that the rule "would be likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies." Second, if he or she determines that a rule has had or is having an unintended or unexpected effect on businesses that is not reasonably within the express or implied scope of the statute under which the rule purportedly was adopted, the chairperson of the Joint Committee on Agency Rule Review would be allowed to move JCARR to order the agency to submit the rule for review.

Under the first definition, a business that lost a contract with the state because the General Assembly changed a program and rules changed accordingly would be among those experiencing an adverse impact. This applies to existing rules, so enforcement of charter school reporting requirements that resulted in a reduction in revenue to a school would be an adverse impact. Is it the intent of the General Assembly to allow ECOT or some similar school in the future to challenge such a rule because it has experienced an adverse impact?

How about the restitution and damages that Attorney General Mike DeWine is seeking from DuPont for releasing the toxic chemical C8 from its plant on the Ohio River? "We believe the evidence shows that DuPont kept releasing this chemical even though it knew about the harm it could cause," DeWine said in announcing the suit. "We believe DuPont should pay for any damage it caused, and we're taking this action to protect Ohio, its citizens and its natural resources." If the State of Ohio prevails in this case, there could be an adverse and unexpected impact on DuPont from a section in the Ohio Administrative Code cited in the complaint. Do you as legislators believe that this should enable DuPont to seek relief from JCARR?

The inclusion of these changes in the JCARR statute suggest that any regulation that costs business is somehow suspect. Yet if business requires no regulation, why do we have statutes like the lemon law, protecting consumers when they purchase new vehicles?

The Ohio Administrative Code contains regulations that govern the provision of public services. Some of these regulations ensure that we have clean water to drink, air that is fit to breathe and safe and orderly streets. Others ensure that we have sanitary restaurants and swimming pools, that hospitals are certified or accredited, and that nursing homes are licensed. Some protect investments of taxpayer funds. Regulations are necessary to a civil society and a stable economy.

Just like Ohio residents, businesses have opportunities to participate when JCARR performs its regular reviews of the administrative code. They should not have special rights. Thank you for this opportunity to testify.