Making the Grade

Ohio's Success Cutting Regulations

By Greg R. Lawson
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Buckeye Policy Brief

Introduction

Over several legislative sessions, the Ohio General Assembly and most state agencies have worked to reduce Ohio's bureaucratic, regulatory burdens that hinder economic growth.[1] The Buckeye Institute's policy brief, *Ohio: A Model for Regulatory Reform*, highlighted recent successes that offer other states a roadmap for cutting red tape to help unlock growth and prosperity.[2] That roadmap includes valuable lessons in regulatory reform that Ohio has learned along the way:

- *Legislative Leadership and Oversight are Critical*. Legislative action lasts longer than agency action, and legislatures need to monitor agency-led reforms to hold them accountable.
- *Inventories and Defined Expectations Clarify the Challenge*. To meet reform goals, policymakers must first quantify the state's initial regulatory burden and clearly define reduction targets.
- *Public Input Exposes Bad Regulations*. Regulated industries often understand a regulation's burdens better than regulators. A user-friendly website for the public to discuss regulatory impacts can help agencies better appreciate those impacts and unintended consequences.
- *Technology Makes Regulatory Reviews Easier*. Software innovations like artificial intelligence (AI) can help agencies scan voluminous statutory and administrative codes to identify duplicate, outdated, and unnecessary regulations.

With those lessons learned and shared, it is time to review and assess how Ohio has fared thus far in its own regulatory reduction effort.

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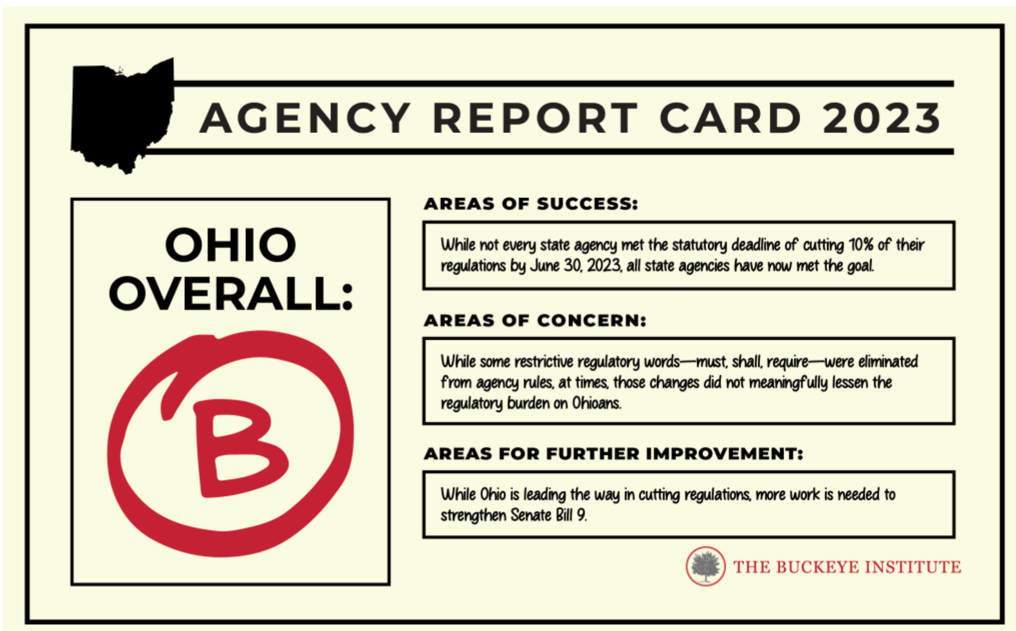
[1] Patrick McLaughlin and Bentley Coffey, ***Regulation and Growth: Evidence from British Columbia's Experiment in Regulatory Budgeting***, The Mercatus Center, June 1, 2021.

[2] Greg R. Lawson, ***Ohio: A Model for Regulatory Reform***, The Buckeye Institute, October 25, 2023.

Grading Ohio's Progress

Agency Compliance Efforts

Enacted in 2022 Ohio Senate Bill 9 requires every state agency to reduce regulatory restrictions by 30 percent by June 30, 2025. To do that responsibly and effectively, the law requires each agency to cut an initial 10 percent by June 30, 2023, a second 10 percent by June 30, 2024, and a final 10 percent by the 2025 deadline. Agencies must file annual reports with Ohio's Joint Committee on Agency Rule Review (JCARR)[3] detailing their compliance with the statutory requirements so that the JCARR can oversee those efforts.[4] Two-thirds of Ohio's 27 agencies met the June 2023 reduction target[5] (see table below and click on the table to see an interactive version). Of the nine agencies that failed to meet the deadline, five included plans for compliance by the end of 2023.[6] JCARR called each of the four remaining non-compliant agencies to appear and explain their non-compliance. That accountability resulted in all 27 agencies being on-target to comply with the statutory reduction requirements by the end of January 2024.[7] Grade: B.



Cut Red Tape Ohio

Senate Bill 9 also required creating the Cut Red Tape Ohio website—a public-facing online portal run by JCARR that gives regulated industries information about new rules and restrictions and offers a user-friendly tool for those industries to flag problems or register complaints regarding

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[3] **Joint Committee and Agency Rule Review**, JCARR.state.oh.us.
[4] **S.B. 9 Historical Report for Fiscal Year 2023**, JCARR.state.oh.us, December 8, 2023.
[5] *Ibid.*
[6] *Ibid.*
[7] *Ibid.*

regulatory burdens so that JCARR staff can work with the relevant agencies to resolve them.[8] The website has already successfully helped eliminate duplicative regulatory oversight by the Department of Agriculture (ODA) and the Department of Natural Resources (ODNR).[9] Grade: A.

State Agency	Percent of Regulations Cut by Statute Deadline of June 30, 2023	Percent of Regulations Cut by End of January 2024
Administrative Services, Department of	22.00%	22.00%
Aging, Department of	27.50%	27.50%
Agriculture, Department of	0.36%	13.00%
Bureau of Workers' Compensation	16.00%	16.00%
Casino Control Commission	18.60%	18.60%
Commerce, Department of	51.00%	51.00%
Development Disabilities, Department of	25.00%	25.00%
Development Services Agency	1.00%	11.00%
Education and Workforce, Department of	9.25%	15.20%
Environmental Protection Agency	13.60%	13.60%
Health, Department of	10.43%	10.43%
Higher Education, Department of	6.59%	10.00%
Insurance, Department of	0.66%	10.00%
Job and Family Services, Department of	10.00%	10.00%
Lottery Commission	13.25%	13.25%
Medicaid, Department of	18.00%	18.00%
Mental Health and Addiction Services, Department of	14.00%	14.00%
Natural Resources, Department of	9.37%	11.34%
Office of Budget and Management	30.00%	30.00%
Public Safety, Department of	16.19%	16.19%
Public Utilities Commission	17.00%	17.00%
Racing Commission	0.19%	10.00%
Rehabilitation and Correction, Department of	4.10%	13.10%
Taxation, Department of	4.00%	13.20%
Transportation, Department of	22.23%	22.23%
Veteran Services, Department of	10.00%	10.00%
Youth Services, Department of	22.00%	22.00%

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Source: Joint Committee on Agency Rule Review • Created with Datawrapper

[8] **Senate Bill 9 of the 134th General Assembly**, Legislature.ohio.gov (Last visited January 11, 2024).
[9] See CutRedTape.ohio.gov **inquiry number 10000321 and response**.

Agency Cooperation

Despite significant success meeting statutory deadlines for reducing regulatory restrictions—with a little prodding by JCARR—some agencies seem inclined to satisfy the letter of the law without embracing the spirit of the law. Some rule packages have ostensibly removed restrictive regulatory language under the letter of the law without meaningfully reducing the substantive regulatory burden. Agencies do this by striking some Administration Code restrictions but then refer to a standard published elsewhere, often by a professional association with subject matter expertise, and with the stroke of an "incorporation by reference" make that published standard enforceable under the agency's regulatory authority. Because the standards are not copied verbatim some of the regulatory restrictions initially flagged for removal are technically "eliminated," even as their associated burdens remain intact.[10] This evasive practice highlights the need for legislative oversight and accountability. Legislators can ask the tough questions and assess whether an agency is truly reducing the regulatory burden or simply shifting responsibility by reference. Grade: C-.

How Ohio Can Raise Its Grade

To raise its grade and improve regulatory reform across state agencies, Ohio should take two more short-term steps: stop the side-stepping practice of "incorporating by reference" to maintain regulatory burdens and thereby violate the spirit of Senate Bill 9; and expand computer and AI assistance through the Innovate the Code effort to find and eliminate regulatory redundancies.[11] As AI improves and synthesizes more data, it can help analyze and compare regulatory language in other states to determine whether Ohio's version is an outlier or consistent with regulatory patterns elsewhere. Making such comparisons more thoroughly and accurately will help Ohio improve its effort to reduce unnecessary regulatory burdens and restrictions.

Conclusion

Ohio's regulatory reform effort under Senate Bill 9 has earned a solid B grade thus far. Most state agencies have begun reducing their regulatory restrictions by at least 10 percent. Legislative oversight has helped non-compliant agencies meet their statutory obligations, and that is how Senate Bill 9's reforms were intended to function. Ohio's web-based portal that allows regulated entities and the public to dialogue with JCARR about regulatory burdens and unintended consequences has already paid some dividends and looks to be aiding in the reform effort. JCARR will need to remain vigilant and pro-active to keep executive agencies on task and ensure that regulators do not keep the letter of the law by violating its spirit. And more can be done to put improving software and computer technology to use in weeding out redundant and needlessly burdensome regulatory restrictions that hinder growth and limit prosperity.

[10] **Ohio Revised Code 121.72 (2019)**.

[11] **Husted, Sen. Wilson and Rep. Hall Announce "Innovate the Code"**, Lieutenant Governor Jon Husted press release December 14, 2021.

About the Author

Greg R. Lawson is a research fellow at The Buckeye Institute and serves as Buckeye's liaison to officials in the legislative and executive branches and educates policymakers on free-market solutions to Ohio's most pressing challenges. Lawson has nearly 20 years of experience working on 10 state budgets and has a deep knowledge of state and local taxes, Medicaid, education, and transportation funding. He began his career in state policy as a Legislative Service Commission fellow with the Ohio General Assembly.

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