

OHIO GENERAL ASSEMBLY
JOINT COMMITTEE ON AGENCY RULE REVIEW

SENATE MEMBERS

ANDREW O. BRENNER
HEARCEL F. CRAIG

STEPHANIE KUNZE
SANDRA R. WILLIAMS



LARRY WOLPERT
EXECUTIVE DIRECTOR

GREG FOUCHE
DEPUTY DIRECTOR

HOUSE MEMBERS

JAMIE CALLENDER
CHAIR

DICK STEIN
MICHAEL J. SKINDELL

BRETT HUDSON HILLYER
KRISTIN BOGGS

September 16, 2019

Chairman Callender called the meeting to order at 1:32 p.m.

Deputy Director Greg Fouche called the roll. Representatives Callender, Stein, Hillyer, Skindell, Boggs and Senators Brenner, Kunze, Williams, and Craig were in attendance. President Obhof served as Vice-Chair. Deputy Director Fouche stated a quorum was present. Chairman Callender invited President Obhof to offer comments regarding regulatory reform as passed in HB 166. President Obhof stated the budget included language that requires state agencies to eliminate two regulatory restrictions for every newly proposed restriction. President Obhof stated the intent of the legislation is to limit the overall regulatory burden of state government and he is hopeful that it will help slow down the growth of the administrative state. Chairman Callender asked the Committee members to review the August 12, 2019 minutes. The minutes were approved as presented.

Director Wolpert read the No Change Agenda. Chairman Callender called for questions or comments on the No Change Agenda. There were no questions from the Committee or public. Director Wolpert read the Regular Agenda. Proposed new rule 3701-28-18 was moved to the review portion of the agenda. Chairman Callender called for questions or comments on the Regular Agenda. There were no questions from the Committee or public. The Committee was temporarily recessed at 1:36 p.m.

The Committee was called back to order at 1:38 p.m. to address the review portion of the agenda. Chairman Callender called James David Yeager, Yeager Well Drilling and Pumps, to offer testimony on proposed new rule 3701-28-18. Mr. Yeager expressed his concerns with unregistered persons working on private water systems and homeowners registering to work on their private water system. Chairman Callender asked Mr. Yeager to explain why he thought the rule had an incomplete or inaccurate Rule Summary and Fiscal Analysis (RSFA) and an adverse business impact as pointed out on Mr. Yeager's witness slip.

Mr. Yeager stated when a homeowner wants to grout their well closed they are doing so because they do not want to pay for it which takes money out of the pockets of people that are registered to do the work. Chairman Callender asked Mr. Yeager if hiring a contractor to work on the well was currently in rule and if the proposed new rule changed this process. Mr. Yeager stated, "Yes." There were no further questions for the witness.

Chairman Callender called Rachel Townsend and Mike Laubert from the Ohio Department of Health (ODH) to provide comments and answer questions from the Committee. Ms. Townsend stated property owners have been required to register to work on private water systems with ODH since 2011. Ms. Townsend stated the proposed revision is clarifying that the property owner will pay the statutory registration fee.

Senator Williams asked Ms. Townsend to clarify that a business would have to register and pay a fee but a homeowner registers and does not pay a fee. Ms. Townsend stated the statute sets the registration fee at sixty-five dollars, which is what the property owner would pay for the registration. Ms. Townsend stated a business would pay two hundred and fifty dollars for the registration. Ms. Townsend stated the statute allows the Director to increase the registration fee if necessary to cover costs.

Senator Williams asked how ODH was ensuring that residents living near a property owner working on their own well are doing so in a safe and efficient manner. Senator Williams also asked if ODH looks at the well site before and after it is sealed. Ms. Townsend stated anytime a private water system is sealed or decommissioned it is done through the local health district. Ms. Townsend stated the property owner needs to be registered with ODH before they can receive the permit. Ms. Townsend stated before the registration forms are given to the

applicant they must speak with program staff at ODH or their local health district so that they are aware of compliance standards to protect groundwater, public health, and not have a negative impact on surrounding groundwater users.

Ms. Townsend stated the applicant must submit paperwork as part of the permit process to the local health department as well as filing a sealing report with the Ohio Department of Natural Resources (ODNR) that the local health district reviews for compliance. Senator Skindell stated if a private homeowner was hiring a contractor, that contractor has to be registered. Ms. Townsend stated that Senator Skindell was correct. Senator Skindell stated that contractor would have to adhere to ODH and the local board. Ms. Townsend stated the contractor would have to adhere to the requirements of rules in chapter 3701-28.

Senator Skindell asked if there was an exemption if the homeowner does not hire contractors and is doing the work on their own. Ms. Townsend stated the exemption would be the property owner registration. Senator Skindell stated the homeowner performing their own work does not need to comply with the requirements of a contractor. Ms. Townsend stated the property owner does not have to comply with the general business liability insurance. Senator Skindell asked how long this has been in place. Ms. Townsend stated property owners were not registered prior to 2011. Senator Skindell stated that means the property owners could not work on private water systems prior to 2011. Ms. Townsend stated prior to 2011 property owners were not required to register so there was no oversight over the work they were performing on their private water systems.

Senator Williams asked if ODH inspected the work site prior to working and inspected the finished work of the property owner. Ms. Townsend stated the local health district inspects the work site prior to work and after the work is finished. Chairman Callender asked what the proposed rule was affecting. Ms. Townsend stated the proposed rule was clarifying that a property owner would not pay the same registration fee a business would pay. Chairman Callender asked if the proposed rule allowed more work to be performed by the property owner than what is allowed currently. Ms. Townsend stated, "No." Chairman Callender stated the proposed rule does not take an existing business stream for contractors away because property owners were not required to hire contractors to perform the work prior to or after this rule. Ms. Townsend stated Chairman Callender was correct.

Senator Brenner asked how a homeowner would know to get a permit to work on their well. Ms. Townsend stated the local health districts would inform the homeowner of the registration process. Senator Brenner asked how many homeowners would seal their own well. Ms. Townsend stated from April 1, 2011 through December of 2017 approximately 538 property owner applications were submitted. Ms. Townsend stated 121 of those applications were for well sealing. Senator Brenner asked if the information was for property owners performing the work themselves. Ms. Townsend stated the information was for property owners performing the work themselves. There were no further questions for the witness.

Chairman Callender reminded the public of the next JCARR meeting on Monday, October 7, 2019 at 1:30 p.m. in the William McKinley Hearing Room.

Chairman Callender adjourned the meeting at 2:00 p.m.



Jamie Callender, Chair



Larry Wolpert, Director