



JOHN R. KASICH
GOVERNOR
STATE OF OHIO

Executive Order 2011-01K

Establishing the Common Sense Initiative

WHEREAS, competition to attract and retain businesses and jobs has increased among states. To successfully compete in today's economy, Ohio must work proactively to give innovative people and innovative companies reasons to be here, but must also tear down any obstacles that make it more difficult for businesses to operate in Ohio.

WHEREAS, the business community is a partner in Ohio's success. As a result, State processes should respect the contributions that businesses make toward job creation. Regulations should facilitate economic growth, and the goal of regulators should be to help businesses comply.

WHEREAS, small businesses are disproportionately impacted by regulations, particularly those that are unclear or overly restrictive. Small businesses are the economic engine of the economy. The vast majority of businesses in Ohio, and throughout the country, are small businesses. Small businesses are a vital component in creating new jobs and fostering innovation. However, complying with confusing, duplicative, or ineffective regulations strain their resources and divert effort from job creation and production. In too many cases, Ohio's regulatory framework has worked against, not with, these small businesses.

WHEREAS, regulations play an important role in promoting fair competition, protecting the public health, and implementing the intent of the General Assembly. All of Ohio benefits from regulations that are in the public interest and are enforced properly. Protecting the public is always first and foremost, and regulatory compliance increases when regulations are easier to understand and to follow.

WHEREAS, Ohio's regulatory process should be built on the foundations of transparency, accountability, and performance. Government must be held accountable to justify that every regulation in place serves a purpose and is implemented in the most effective manner possible. Agencies should develop regulations in the full light of public scrutiny, and the public should have an opportunity to help shape those regulations and to challenge any that are unfair, overly burdensome, or ineffective.

WHEREAS, the priority of a strong regulatory system should be compliance, not punishment. State agencies should work with their regulated communities to achieve the goals of

their regulations. Wherever possible, penalties should be waived for first-time violators, especially for administrative matters such as filing and reporting deadlines. Flexibility and simplicity should be emphasized in order to promote compliance. Enforcement actions should be utilized when necessary for entities that have been unwilling to comply.

WHEREAS, an open, accountable process will promote a regulatory environment that serves the public interest and contributes to economic development in Ohio.

NOW THEREFORE, I, John R. Kasich, Governor of the State of Ohio, by virtue of the authority vested in me by the Constitution and the laws of this State do hereby order and direct that:

1. The Lieutenant Governor is granted the authority to develop and implement the “Common Sense Initiative,” a process for independently evaluating the economic impact of agency rules and regulations on small businesses in Ohio. Specifically, the Lieutenant Governor is authorized to:
 - a. Establish a Common Sense Initiative Office (“CSI Office”) to review relevant rules and regulations from cabinet-level agencies and State boards and commissions, receive and consider input from all interested parties, issue recommendations to the agencies and the General Assembly, and monitor the implementation of these rules and regulations.
 - b. Hire the appropriate staff to ensure the effectiveness of this Office. While the Lieutenant Governor shall maintain the flexibility to determine its structure, one component of the CSI Office should serve solely to receive the viewpoints of and advocate for the small business community on proposed and existing regulations.
 - c. Develop a workable definition of what is a “small business” for the purpose of implementing the Common Sense Initiative.
 - d. Develop a process for requiring agencies to determine the real or potential economic impact on small businesses from existing or proposed regulations. The Lieutenant Governor shall have the authority, in her sole discretion, to require the agency to conduct a public hearing to assist in determining the economic impact of any regulation or group of regulations.
 - e. Require any changes to the electronic notification system established in Executive Order 2008-04S necessary to implement the goals of this Executive Order. In her discretion, the Lieutenant Governor may work with the Department of Administrative Services and the State Chief Information Officer to develop a new centralized electronic system to further the goals of this Executive Order.
 - f. Serve as a point of contact for small businesses throughout Ohio to voice concerns about the implementation of any rule or regulation. The Lieutenant Governor shall have the authority to require an agency to respond to any specific concern or pattern of concerns about a regulation received through the CSI Office.
 - g. Conduct, or contract to have conducted, an inventory of existing agency rules and regulations to determine those that economically impact small businesses. This inventory shall serve, in part, as a resource to determine which rules, when subject to five-year review by the Joint Committee on Agency Rule Review (JCARR), will also be subject to review by the CSI Office.

- h. Establish a Small Business Advisory Council which will offer the Lieutenant Governor the perspectives of the small business community and provide guidance into the mission and direction of the CSI Office.
 - i. Make recommendations regarding the restructuring of and/or the responsibilities of divisions or functions of State government that relate to small businesses that duplicate the authorities granted to the Lieutenant Governor by this Executive Order.
 - j. Recommend specific measures to allow the Ohio Business Gateway to facilitate ease of use for businesses and better compliance with government regulations.
 - k. Make recommendations to the Governor and General Assembly for legislative changes to promote the goals of this Executive Order.
2. All Cabinet Agencies, Boards, and Commissions (hereafter “agencies”) shall comply with any requests or directives from the Lieutenant Governor and/or the CSI Office with regard to regulations that economically impact small businesses. Specifically, directors of cabinet agencies shall ensure that their agencies do the following:
- a. Establish business regulations through the agency rule-making process, unless the agency can demonstrate that it is impossible or impractical to do so.
 - b. Develop rules, regulations, and related communications that are written in plain English to help ensure that affected parties will be able to understand the regulations and comply. Technical terms should be defined so that their meanings are clear to all parties.
 - c. Before filing with JCARR a proposed rule that economically impacts small businesses, determine the real or potential impact of the rule on small business. The agency shall comply with all requirements of the CSI Office, including a determination by the Lieutenant Governor to require a public hearing, in determining the economic impact. When required by the CSI Office, agencies shall also review the impacts on small businesses of regulations that are not established through administrative rules.
 - d. Continue to participate in the electronic notification process established in Executive Order 2008-04S, unless a separate process is established by the Lieutenant Governor.
 - e. Attempt, in all rules and regulations, to properly balance the critical objectives of the regulation and the costs of compliance by the regulated parties. The agency should consider, as early as possible in the development or review of regulations, the perspectives of small businesses. The agency should promote transparency, consistency, predictability, and flexibility in regulatory activities. All efforts shall be made to choose the regulation that accomplishes the regulatory objective and is least burdensome on small businesses.
 - f. Provide transparent and measurable outcomes in each regulation to help the agency and the public determine whether the regulation is effective. The agency should continually evaluate its regulatory framework to ensure that it is accomplishing its regulatory objectives.
 - g. Establish, whenever possible, regulations that can be complied with electronically in order to minimize paperwork and associated costs for businesses.

I signed this Executive Order on January 10, 2011 in Columbus, Ohio and it will expire on my last day as Governor of Ohio unless rescinded before then.

John R. Kasich, Governor

ATTEST:

Jon Husted, Secretary of State