

Rule Summary and Fiscal Analysis (Part A)**Department of Aging**

Agency Name

Division

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173-11-03

Rule Number

RESCISSION

TYPE of rule filing

Rule Title/Tag Line

Application process.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **173.01, 173.02, 173.11**

5. Statute(s) the rule, as filed, amplifies or implements: **173.11, 173.12**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA appreciates the vital role that multi-purpose senior centers play in caring for older Ohioans. Over the years, ODA was honored to distribute funds from the Senior Facilities Program to counties, townships, municipal corporations, and local non-profit organizations to build multi-purpose senior centers, to renovate buildings that would become multi-purpose senior centers, or to purchase services for the multi-purpose senior centers.

In 1978, H.B.1084 (112th GA) established the Senior Facilities Program and, in 1980 and 1984, H.B.827 (113th GA) and H.B.660 (115th GA) respectively modified the program. However, since 2001, the program has been dormant due to a lack of adequate funding. The General Assembly discontinued funding the program and no person or organization has awarded a grant or gift to the program.

Although the program is dormant, section 173.11 of the Revised Code continues to establish the program, which leaves the potential for an adequate funding source to resuscitate it. Part of the requirement in section 173.11 of the Revised Code is for ODA to adopt rules under which counties, townships, municipal corporations, or local non-profit organizations may apply to ODA to participate in the program if future funding resuscitates the program from its dormancy.

Because section 173.11 of the Revised Code continues to require ODA to adopt rules, ODA continues to comply with its regulatory duties concerning the rules, including the periodic review. Section 119.032 of the Revised Code requires ODA to review Chapter 173-11 of the Administrative Code this year, which for the first time, includes subjecting the rules to the Common-Sense Initiative that S.B.3 (129th GA) created.

Earlier in the year, ODA reviewed Chapter 173-11 of the Administrative Code, proposed to make non-substantive amendments to each rule, and then submitted the proposal to the Common-Sense Initiative Office (CSIO).

However, on November 14, ODA officially changed its proposal.

On November 14, CSIO released its official comments on the proposed amendments. CSIO acknowledged that the Senior Facilities Program is dormant, but that section 173.11 of the Revised Code continues to require ODA to adopt rules during the dormancy. CSIO commented that it would make no recommendations regarding the rule package with the understanding that ODA would proceed with a common-sense, single-rule alternative that would be more appropriate for a dormant program. In the weeks preceding the November 14 comments, CSIO had been working with ODA to develop the alternative proposal.

Specifically, CSIO asked ODA to: (1) rescind the existing rules for the program, (2) draft a single new rule that provides a basic framework for counties, townships, municipal corporations, or local non-profit organizations (which may include existing senior centers) to apply to ODA to participate in the program; and (3) include language that says the rule applies if future funding resuscitates the program from its dormancy.

Therefore, ODA is now proposing to facilitate (1) above by rescinding all of Chapter 173-11 of the Administrative Code. In place of the chapter, ODA is proposing to adopt new rule 173-11-03 of the Administrative Code to facilitate (2) and (3) above.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule that ODA is proposing to rescind describes the application process for the Senior Facilities Program.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other materials by reference.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. 119.032 Rule Review Date: **11/15/2013**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

ODA estimates that moving forward with CSIO's plan to rescind Chapter 173-11 of the Administrative Code and, in its place, adopt a new rule 173-11-03 of the Administrative Code, would not result in any change in the budget that the General Assembly established for ODA nor any change in ODA's expenditures. This is largely because the General Assembly has not appropriated funds to the program since 2001.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

GRF-490-504 Senior Facilities (The Ohio General Assembly last appropriated funds for this line in FY02 (2001-2002). The total appropriation for FY02 was \$59,100.)

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

ODA estimates that there will be no cost of compliance to any directly-affected persons if ODA moves forward with CSIO's plan to rescind Chapter 173-11 of the Administrative Code and, in its place, adopt a new rule 173-11-03 of the Administrative Code. This is largely because the program is dormant.

Please see the business impact analysis (BIA) for more information.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

If the program was not dormant, counties, townships, municipal corporations, and local non-profit organizations could expend administrative costs to compile applications to submit to ODA in hopes of being awarded a grant from the Senior Facilities Program.

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

| (a) School Districts | (b) Counties | (c) Townships | (d) Municipal Corporations |
|----------------------|--------------|---------------|----------------------------|
| No | Yes | Yes | Yes |

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

Because the General Assembly has not funded the Senior Facilities Program since 2001 and no person or organization has awarded a grant or gift to the program, the program is dormant. Therefore, no county, township, or municipal corporation is able to apply to ODA for a grant from the program. Therefore, there is no cost of compliance associated with (1) the burden of applying for a grant or (2) any reversionary interest ODA would retain in a facility that it awarded a grant to construct or renovate.

ODA is proposing to rescind this rule and, simultaneously, to adopt a rule of the same number. Both the rule that ODA is proposing to rescind and the rule that ODA is proposing to adopt set forth the application process for the dormant program.

Please see the business impact analysis for more information.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of

compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

The rules for the Senior Facilities Program do not do not create a cost of compliance for any county, township, or municipal corporation because the Ohio General Assembly has not funded the program since 2001. As a result, the program has no grants to award and no costs of compliance to require of grant recipients. The program is in a state of dormancy so long as it remains unfunded.

(a) Personnel Costs

The rules for the Senior Facilities Program do not do not require any county, township, or municipal corporation to expend personnel costs because the Ohio General Assembly has not funded the program since 2001. As a result, the program has no grants to award, which means there are no administrative costs related to applying for a grant or verifying to ODA that the county, township, or municipal corporation complies with the rules of Chapter 173-11 of the Administrative Code. The program is in a state of dormancy so long as it remains unfunded.

(b) New Equipment or Other Capital Costs

For more information, please see ODA's response to the previous item and its business impact analysis.

(c) Operating Costs

For more information, please see ODA's response to the previous item and its business impact analysis.

(d) Any Indirect Central Service Costs

For more information, please see ODA's response to the previous item and its business impact analysis.

(e) Other Costs

For more information, please see ODA's response to the previous item and its business impact analysis.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

Because the Senior Facilities Program is dormant, there is no present ability to apply to ODA for a grant from the program. Therefore, there is no need for a county, township, or municipal corporation to expend any funds on applying to ODA or on verifying compliance with chapter 173-11 of the Administrative Code.

7. Please provide a statement on the proposed rule's impact on economic development.

The rule has no impact upon economic development--positive or negative--because the Senior Facilities Program is dormant.