

SECOND REGULAR SESSION

HOUSE BILL NO. 2037

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PATTERSON.

4457H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 536.010, 536.050, 536.175, 536.300, 536.303, 536.305, 536.310, 536.315, 536.323, and 536.325, RSMo, and to enact in lieu thereof five new sections relating to the small business regulatory fairness board.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 536.010, 536.050, 536.175, 536.300, 536.303, 536.305, 536.310, 536.315, 536.323, and 536.325, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 536.010, 536.050, 536.175, 536.300, and 536.323, to read as follows:

536.010. For the purpose of this chapter:

- (1) "Affected small business" or "affects small business" means any potential or actual requirement imposed upon a small business or minority small business through a state agency's proposed or adopted rule that will cause direct and significant economic burden upon a small business or minority small business, or that is directly related to the formation, operation, or expansion of a small business;
- (2) "Agency" means any administrative officer or body existing under the constitution or by law and authorized by law or the constitution to make rules or to adjudicate contested cases, except those in the legislative or judicial branches;
- (3) ~~["Board" means the small business regulatory fairness board, except when the word is used in section 536.100;~~
- ~~———(4)]~~ "Contested case" means a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 14 ~~[(5)]~~ (4) The term "decision" includes decisions and orders whether negative or
15 affirmative in form;
- 16 ~~[(6)]~~ (5) "Rule" means each agency statement of general applicability that implements,
17 interprets, or prescribes law or policy, or that describes the organization, procedure, or practice
18 requirements of any agency. The term includes the amendment or repeal of an existing rule, but
19 does not include:
- 20 (a) A statement concerning only the internal management of an agency and which does
21 not substantially affect the legal rights of, or procedures available to, the public or any segment
22 thereof;
- 23 (b) A declaratory ruling issued pursuant to section 536.050, or an interpretation issued
24 by an agency with respect to a specific set of facts and intended to apply only to that specific set
25 of facts;
- 26 (c) An intergovernmental, interagency, or intraagency memorandum, directive, manual
27 or other communication which does not substantially affect the legal rights of, or procedures
28 available to, the public or any segment thereof;
- 29 (d) A determination, decision, or order in a contested case;
- 30 (e) An opinion of the attorney general;
- 31 (f) Those portions of staff manuals, instructions or other statements issued by an agency
32 which set forth criteria or guidelines to be used by its staff in auditing, in making inspections,
33 in settling commercial disputes or negotiating commercial arrangements, or in the selection or
34 handling of cases, such as operational tactics or allowable tolerances or criteria for the defense,
35 prosecution, or settlement of cases, when the disclosure of such statements would enable law
36 violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly
37 improper advantage to persons who are in an adverse position to the state;
- 38 (g) A specification of the prices to be charged for goods or services sold by an agency
39 as distinguished from a license fee, or other fees;
- 40 (h) A statement concerning only the physical servicing, maintenance or care of publicly
41 owned or operated facilities or property;
- 42 (i) A statement relating to the use of a particular publicly owned or operated facility or
43 property, the substance of which is indicated to the public by means of signs or signals;
- 44 (j) A decision by an agency not to exercise a discretionary power;
- 45 (k) A statement concerning only inmates of an institution under the control of the
46 department of corrections and human resources or the division of youth services, students
47 enrolled in an educational institution, or clients of a health care facility, when issued by such an
48 agency;

49 (1) Statements or requirements establishing the conditions under which persons may
50 participate in exhibitions, fairs or similar activities, managed by the state or an agency of the
51 state;

52 (m) Income tax or sales forms, returns and instruction booklets prepared by the state
53 department of revenue for distribution to taxpayers for use in preparing tax returns;

54 [(7)] (6) "Small business" means a for-profit enterprise consisting of fewer than one
55 hundred full- or part-time employees;

56 [(8)] (7) "State agency" means each board, commission, department, officer or other
57 administrative office or unit of the state other than the general assembly, the courts, the governor,
58 or a political subdivision of the state, existing under the constitution or statute, and authorized
59 by the constitution or statute to make rules or to adjudicate contested cases.

536.050. 1. The power of the courts of this state to render declaratory judgments shall
2 extend to declaratory judgments respecting the validity of rules, or of threatened applications
3 thereof, and such suits may be maintained against agencies whether or not the plaintiff has first
4 requested the agency to pass upon the question presented. The venue of such suits against
5 agencies shall, at the option of the plaintiff, be in the circuit court of Cole County, or in the
6 county of the plaintiff's residence, or if the plaintiff is a corporation, domestic or foreign, having
7 a registered office or business office in this state, in the county of such registered office or
8 business office. Nothing herein contained shall be construed as a limitation on the declaratory
9 or other relief which the courts might grant in the absence of this section.

10 2. Any person bringing an action under subsection 1 of this section shall not be required
11 to exhaust any administrative remedy if the court determines that:

12 (1) The administrative agency has no authority to grant the relief sought or the
13 administrative remedy is otherwise inadequate; or

14 (2) The only issue presented for adjudication is a constitutional issue or other question
15 of law; or

16 (3) Requiring the person to exhaust any administrative remedy would result in undue
17 prejudice because the person may suffer irreparable harm if unable to secure immediate judicial
18 consideration of the claim. Provided, however, that the provisions of this subsection shall not
19 apply to any matter covered by chapters 288, 302, and 303; or

20 (4) The party bringing the action is a small business claiming a material violation of
21 section 536.300 [~~or 536.303~~] by the state agency requiring the small business impact statement
22 for the amendment or rule.

23 3. A nonstate party who prevails in an action brought pursuant to subsection 1 of this
24 section shall be awarded reasonable fees and expenses, as defined in section 536.085, incurred
25 by that party in the action.

26 4. A nonstate party seeking an award of fees and other expenses shall, within thirty days
27 of a final disposition of an action brought pursuant to subsection 1 of this section, submit to the
28 court which rendered the final disposition or judgment an application which shows that the party
29 is a prevailing party and is eligible to receive an award pursuant to this section, and the amount
30 sought, including an itemized statement from any attorney or expert witness representing or
31 appearing in behalf of the party stating the actual time expended and the rate at which fees and
32 other expenses are computed.

33 5. A prevailing nonstate party in an agency proceeding shall submit an application for
34 fees and expenses to the court before which the party prevailed. The filing of an application shall
35 not stay the time for appealing the merits of a case. When the state appeals the underlying merits
36 of an adversary proceeding, no decision on the application for fees and other expenses in
37 connection with that adversary proceeding shall be made pursuant to this section until a final and
38 unreviewable decision is rendered by the court on the appeal or until the underlying merits of the
39 case have been finally determined pursuant to the appeal.

40 6. The court may either reduce the amount to be awarded or deny any award, to the
41 extent that the prevailing nonstate party during the course of the proceedings engaged in conduct
42 which unduly and unreasonably protracted the final resolution of the matter in controversy.

43 7. The decision of a court on the application for reasonable fees and expenses shall be
44 in writing, separate from the judgment or order of the court which determined the prevailing
45 party, and shall include written findings and conclusions and the reason or basis therefor. The
46 decision of a court on the application for fees and other expenses shall be final, subject
47 respectively to appeal or judicial review.

48 8. If a party or the state is dissatisfied with a determination of fees and other expenses
49 made in an action brought pursuant to subsection 1 of this section, that party or the state may,
50 within the time permitted by law, appeal that order or judgment to the appellate court having
51 jurisdiction to review the merits of that order or judgment. The appellate court's determination
52 shall be based solely on the record made before the court below. The court may modify, reverse
53 or reverse and remand the determination of fees and other expenses if the court finds that the
54 award or failure to make an award of fees and other expenses, or the calculation of the amount
55 of the award, was arbitrary and capricious, was unreasonable, was unsupported by competent and
56 substantial evidence, or was made contrary to law or in excess of the court's jurisdiction. Awards
57 made pursuant to this section shall be payable from amounts appropriated therefor. The state
58 agency against which the award was made shall request an appropriation to pay for the award.

59 9. The general assembly or its designee shall have standing, in law or equity, to intervene
60 in any existing action involving such challenge to agency action. Unless otherwise provided by
61 resolution, the general assembly's designee is the joint committee on administrative rules who

62 may, upon a concurrence of a majority of the committee's members, intervene in the name of the
63 members of the committee in their representative capacity. Nothing in this section shall confer
64 upon the committee any duty to so act or intervene.

536.175. 1. Each state agency shall periodically review all of its rules according to the
2 following review schedule:

3 (1) Rules contained in titles 1 through 6 of the code of state regulations shall begin the
4 review process no later than July 1, 2015, and every five years thereafter;

5 (2) Rules contained in titles 7 through 10 of the code of state regulations shall begin the
6 review process no later than July 1, 2016, and every five years thereafter;

7 (3) Rules contained in titles 11 through 14 of the code of state regulations shall begin
8 the review process no later than July 1, 2017, and every five years thereafter;

9 (4) Rules contained in titles 15 through 19 of the code of state regulations shall begin
10 the review process no later than July 1, 2018, and every five years thereafter; and

11 (5) Rules contained in titles 20 and higher of the code of state regulations shall begin the
12 review process no later than July 1, 2019, and every five years thereafter.

13 2. The joint committee on administrative rules shall cause a notification of agency
14 review to be published in the Missouri Register indicating rules being reviewed under this
15 section and shall contain:

16 (1) Which titles of the code of state regulations will be under review;

17 (2) A notice that anyone may file comments concerning the rules being reviewed no later
18 than sixty days after publication of the notice in the Missouri Register;

19 (3) A notice that all comments must identify the commenter, must specify the rule being
20 commented upon, and must contain comments directly associated to that rule;

21 (4) A listing of agency designee assigned to receive comments on rules under review.

22 3. State agencies shall provide the joint committee on administrative rules contact
23 information for the agency designee assigned to receive comments under subsection 2 of this
24 section.

25 4. Each agency with rules being reviewed shall prepare a report containing the results
26 of its periodic rule review. The report shall consider and include the following:

27 (1) Whether the rule continues to be necessary, taking into consideration the purpose,
28 scope, and intent of the statute under which the rule was adopted;

29 (2) Whether the rule is obsolete, taking into consideration the length of time since the
30 rule was modified and the degree to which technology, economic conditions, or other relevant
31 factors have changed in the subject area affected by the rule;

32 (3) Whether the rule overlaps, duplicates, or conflicts with other state rules, and to the
33 extent feasible, with federal and local governmental rules;

34 (4) Whether a less restrictive, more narrowly tailored, or alternative rule could
35 adequately protect the public or accomplish the same statutory purpose;

36 (5) Whether the rule needs amendment or rescission to reduce regulatory burdens on
37 individuals, businesses, or political subdivisions or eliminate unnecessary paperwork;

38 (6) Whether the rule incorporates a text or other material by reference and, if so, whether
39 the text or other material incorporated by reference meets the requirements of section 536.031;

40 (7) For rules that affect small business, the specific public purpose or interest for
41 adopting the rules and any other reasons to justify its continued existence; and

42 (8) The nature of the comments received by the agency under subsection 2 of this
43 section, a summary of which shall be attached to the report as an appendix and shall include the
44 agency's responses thereto.

45 5. Each agency with rules subject to review shall cause their report to be filed
46 electronically with the joint committee on administrative rules ~~and the small business regulatory~~
47 ~~fairness board~~ no later than June thirtieth of the year after publication of agency review in the
48 Missouri Register under subsection 2 of this section. The reports shall also be made available
49 on the state agency's website. If the state agency fails to file the report as required by this section
50 for any rule and has not received an extension for good cause from the joint committee on
51 administrative rules, the joint committee on administrative rules shall notify the secretary of state
52 to publish a notice as soon as practicable in the Missouri Register as to which rules the
53 delinquency exists. The rule shall be void and of no further effect after the first sixty legislative
54 days of the next regular session of the general assembly unless the state agency corrects the
55 delinquency by providing the required review within ninety days after publication. Upon
56 determination that the agency has complied with the requirements of this section regarding any
57 delinquency that resulted in notice being published, the joint committee on administrative rules
58 shall notify the secretary of state to remove the rule from the notice of rules scheduled to become
59 null and void.

536.300. 1. Prior to submitting proposed rules for adoption, amendment, revision, or
2 repeal, under this chapter the state agency shall determine whether the proposed rulemaking
3 affects small businesses and, if so, the availability and practicability of less-restrictive
4 alternatives that could be implemented to achieve the same results of the proposed rulemaking.
5 This requirement shall not apply to emergency rulemaking pursuant to section 536.025 or to
6 constitutionally authorized rulemaking pursuant to Article IV, Section 45 of the Missouri
7 Constitution. This requirement shall be in addition to the fiscal note requirement of sections
8 536.200 to 536.210.

9 2. If the proposed rules affect small businesses, the state agency shall consider creative,
10 innovative, or flexible methods of compliance for small business and prepare a small business

11 impact statement to be submitted to the secretary of state and the joint committee on
12 administrative rules with the proposed rules. ~~[A copy of the proposed rules and the small~~
13 ~~business impact statement shall also be filed with the board on the same date as they are filed~~
14 ~~with the secretary of state. Such business impact statement and proposed rules shall be~~
15 ~~submitted to the board prior to providing notice for a public hearing.]~~ The statement shall
16 provide a reasonable determination of the following:

17 (1) The methods the agency considered or used to reduce the impact on small businesses
18 such as consolidation, simplification, differing compliance, or reporting requirements, less
19 stringent deadlines, performance rather than design standards, exemption, or any other mitigating
20 techniques;

21 (2) How the agency involved small businesses in the development of the proposed rules;

22 (3) The probable monetary costs and benefits to the implementing agency and other
23 agencies directly affected, including the estimated total amount the agency expects to collect
24 from any additionally imposed fees and the manner in which the moneys will be used, if such
25 costs are capable of determination;

26 (4) A description of the small businesses that will be required to comply with the
27 proposed rules and how they may be adversely affected, except in cases where the state agency
28 has filed a fiscal note that complies with all of the provisions of section 536.205;

29 (5) In dollar amounts, the increase in the level of direct costs, such as fees or
30 administrative penalties, and indirect costs, such as reporting, record keeping, equipment,
31 construction, labor, professional services, revenue loss, or other costs associated with compliance
32 if such costs are capable of determination, except in cases where the state agency has filed a
33 fiscal note that complies with all of the provisions of section 536.205;

34 (6) The business that will be directly affected by, bear the cost of, or directly benefit
35 from the proposed rules;

36 (7) Whether the proposed rules include provisions that are more stringent than those
37 mandated by any comparable or related federal, state, or county standards, with an explanation
38 of the reason for imposing the more-stringent standard.

39 3. Any proposed rule that is required to have a small business impact statement but does
40 not include such a statement shall be invalid and the secretary of state should not publish the rule
41 until such time as the statement is provided. If the state agency determines that its proposed rule
42 does not affect small business, the state agency shall so certify this finding in the transmittal
43 letter to the secretary of state, stating that it has determined that such proposed rule will not have
44 an economic impact on small businesses and the secretary of state shall publish the rule.

45 4. ~~[Sections 536.300 to 536.310]~~ **This section** shall not apply where the proposed rule
46 is being promulgated on an emergency basis, where the rule is federally mandated, or where the

47 rule substantially codifies existing federal or state law. Notwithstanding the provisions of this
48 section, federally mandated regulations are subject to the federal Regulatory Flexibility Act as
49 amended by the Small Business Regulatory and Enforcement Fairness Act of 1996, P.L. 96-354,
50 as amended by P.L. 104.121. Any federally mandated regulations that do not comply with these
51 acts shall be subject to this section.

536.323. 1. In addition to the basis for filing a petition provided in section 536.041, any
2 affected small business may file a written petition with the agency that has adopted rules
3 objecting to all or part of any rule affecting small business on any of the following grounds:

4 (1) The actual effect on small business was not reflected in or significantly exceeded the
5 small business impact statement submitted prior to the adoption of the rules;

6 (2) The small business impact statement did not consider new or significant economic
7 information that reveals an undue impact on small business; or

8 (3) The impacts were not previously considered at the public hearing on the rules.

9 2. For any rule adopted prior to August 28, 2005, an affected small business may file a
10 written petition with the agency that adopted the rule objecting to all or part of any rule affecting
11 small business on any of the following grounds:

12 (1) The rule creates an undue barrier to the formation, operation, and expansion of small
13 businesses in a manner that significantly outweighs the rule's benefit to the public;

14 (2) The rule duplicates, overlaps, or conflicts with rules adopted by the agency or any
15 other agency or violates the substantive authority under which the rule was adopted; or

16 (3) The technology, economic conditions, or other relevant factors justifying the purpose
17 for the rule has changed or no longer exist.

18 3. Upon submission of the petition, the agency shall forward a copy of the petition to the
19 ~~[board and the]~~ joint committee on administrative rules, as required by section 536.041, as
20 notification of a petition filed under sections 536.300 to 536.328. The agency shall promptly
21 consider the petition and may seek advice and counsel regarding the petition. Within sixty days
22 after the receipt of the petition, the agency shall determine whether the impact statement or
23 public hearing addressed the actual and significant impact on small business. The agency shall
24 submit a written response of the agency's determination ~~[to the board]~~ within sixty days of the
25 receipt of the petition. If the agency determines that the petition merits the adoption,
26 amendment, or repeal of a rule, it may initiate proceedings in accordance with the applicable
27 requirements of this chapter.

28 ~~[4. If the agency determines that the petition does not merit the adoption, amendment,~~
29 ~~or repeal of a rule, any affected small business may seek a review of the decision by the board.~~
30 ~~The board may convene a hearing or by other means solicit testimony that will assist in its~~
31 ~~determination of whether to recommend that the agency initiate proceedings in accordance with~~

32 ~~this chapter. For rules adopted after August 28, 2005, the board shall base its recommendations~~
33 ~~on any of the following reasons:~~

34 ~~—— (1) The actual effect on small business was not reflected in or significantly exceeded the~~
35 ~~impact statement submitted prior to the adoption of the rule;~~

36 ~~—— (2) The impact statement did not consider new or significant economic information that~~
37 ~~reveals an undue impact on small business;~~

38 ~~—— (3) Such impacts were not previously considered by the agency; or~~

39 ~~—— (4) Such impacts were not previously considered at the public hearing on the rules.~~

40 ~~—— 5. For rules adopted prior to August 28, 2005, the board shall base its recommendations~~
41 ~~on any of the following reasons:~~

42 ~~—— (1) The rules created an undue barrier to the formation, operation, and expansion of~~
43 ~~small businesses in a manner that significantly outweighs its benefit to the public;~~

44 ~~—— (2) The rules duplicate, overlap, or conflict with rules adopted by the agency or any other~~
45 ~~agency or violate the substantive authority under which the rules were adopted; or~~

46 ~~—— (3) The technology, economic conditions, or other relevant factors justifying the purpose~~
47 ~~for the rules have changed or no longer exist.~~

48 ~~—— 6. The board shall make an evaluation report to the governor and the general assembly~~
49 ~~on rulemaking proceedings, comments from small business, and agency response as provided~~
50 ~~in this section. The governor or general assembly may subsequently take such action in response~~
51 ~~to the evaluation report and agency response as they find appropriate.]~~

2 ~~[536.303. 1. For any proposed rules that affect small business, the~~
3 ~~agency shall also submit a small business statement to the board after a public~~
4 ~~hearing is held. This section shall not apply to emergency rules. The small~~
5 ~~business statement required by this section shall provide the following~~
6 ~~information:~~

7 ~~—— (1) A description of how the opinions or comments from affected small~~
8 ~~businesses were solicited;~~

9 ~~—— (2) A summary of the public and small business comments;~~

10 ~~—— (3) A summary of the agency's response to those comments; and~~

11 ~~—— (4) The number of persons who attended the public hearing, testified at~~
12 ~~the hearing, and submitted written comments.~~

13 ~~—— 2. If a request to change the proposed rule was made at the hearing in a~~
14 ~~way that affected small business, a statement of the reasons for adopting the~~
15 ~~proposed rule without the requested change shall be included in the small~~
16 ~~business statement.]~~

2 ~~[536.305. 1. There is hereby established the "Small Business Regulatory~~
3 ~~Fairness Board". The department of economic development shall provide staff~~
4 ~~support for the board.~~

4 ~~2. The board shall be composed of nine members appointed in the~~
5 ~~following manner:~~
6 ~~(1) One member who is the chair of the minority business advocacy~~
7 ~~commission;~~
8 ~~(2) One member appointed by the president pro tempore of the senate;~~
9 ~~(3) One member appointed by the minority leader of the senate;~~
10 ~~(4) One member appointed by the speaker of the house of representatives;~~
11 ~~(5) One member appointed by the minority leader of the house of~~
12 ~~representatives; and~~
13 ~~(6) Four members appointed by the governor.~~
14 ~~3. Each member of the board, except for the public members and the~~
15 ~~chair of the minority business advocacy commission, shall be a current or former~~
16 ~~owner or officer of a small business. All members of the board shall represent~~
17 ~~a variety of small businesses, both rural and urban, and be from a variety of~~
18 ~~geographical areas of this state, provided that no more than two members shall~~
19 ~~represent the same type of small business.~~
20 ~~4. Members of the board shall serve a term of three years and may be~~
21 ~~reappointed at the conclusion of the term. No member shall serve more than~~
22 ~~three consecutive terms. Appointments shall be made so that one-third of the~~
23 ~~membership of the board shall terminate each year. The governor shall appoint~~
24 ~~the initial chairperson of the board and a majority of the board shall elect~~
25 ~~subsequent chairpersons. The chairperson shall serve as chair for a term of not~~
26 ~~more than two years.~~
27 ~~5. Members of the board shall serve without compensation, but may be~~
28 ~~reimbursed for reasonable and necessary expenses relating to their performance~~
29 ~~of duties, according to the rules and regulations of travel issued by the office of~~
30 ~~administration. Members will be required to submit an expense account form in~~
31 ~~order to obtain reimbursement for expenses incurred.~~
32 ~~6. The board shall meet as often as necessary, as determined by the~~
33 ~~chairperson of the board. All meetings of the board will be conducted in~~
34 ~~accordance with the governmental bodies and records act, chapter 610, including~~
35 ~~closed sessions. Notice will be posted and will be provided to the joint~~
36 ~~committee on administrative rules. Minutes of the meetings shall be provided to~~
37 ~~all members, the office of the governor, and the joint committee on~~
38 ~~administrative rules.~~
39 ~~7. In addition to any other powers provided by sections 536.300 to~~
40 ~~536.328, the board may adopt any rules necessary to implement sections 536.300~~
41 ~~to 536.328 and take any action necessary to effectuate the purposes of sections~~
42 ~~536.300 to 536.328. Any rule or portion of a rule, as that term is defined in~~
43 ~~section 536.010, that is created under the authority delegated in this section shall~~
44 ~~become effective only if it complies with and is subject to all of the provisions~~
45 ~~of this chapter and, if applicable, section 536.028. This section and this chapter~~
46 ~~are nonseverable and if any of the powers vested with the general assembly~~

47 pursuant to this chapter to review, to delay the effective date, or to disapprove
48 and annul a rule are subsequently held unconstitutional, then the grant of
49 rulemaking authority and any rule proposed or adopted after August 28, 2005,
50 shall be invalid and void.]

~~[536.310. 1. The board shall:~~

2 ~~————— (1) Provide state agencies with input regarding rules that adversely affect~~
3 ~~small businesses;~~

4 ~~————— (2) Solicit input and conduct hearings from small business owners and~~
5 ~~state agencies regarding any rules proposed by a state agency; and~~

6 ~~————— (3) Provide an evaluation report to the governor and the general~~
7 ~~assembly, including any recommendations and evaluations of state agencies~~
8 ~~regarding regulatory fairness for Missouri's small businesses. The report shall~~
9 ~~include comments from small businesses, state agency responses, and a summary~~
10 ~~of any public testimony on rules brought before the board for consideration.~~

11 ~~————— 2. In any inquiry conducted by the board because of a request from a~~
12 ~~small business owner, the board may make recommendations to the state agency.~~
13 ~~If the board makes recommendations, such recommendations shall be based on~~
14 ~~any of the following grounds:~~

15 ~~————— (1) The rule creates an undue barrier to the formation, operation, and~~
16 ~~expansion of small businesses in a manner that significantly outweighs the rule's~~
17 ~~benefits to the public; or~~

18 ~~————— (2) New or significant economic information indicates the proposed rule~~
19 ~~would create an undue impact on small businesses; or~~

20 ~~————— (3) Technology, economic conditions, or other relevant factors justifying~~
21 ~~the purpose for the rule has changed or no longer exists; or~~

22 ~~————— (4) If the rule was adopted after August 28, 2004, whether the actual~~
23 ~~effect on small businesses was not reflected in or significantly exceeded the small~~
24 ~~business impact statement submitted prior to the adoption of the rule.~~

25 ~~————— 3. Subject to appropriations, by a majority vote of the board, the board~~
26 ~~may hire a one-half full-time equivalent employee for clerical support and a~~
27 ~~full-time equivalent employee with total salaries funded from the department of~~
28 ~~economic development appropriations up to one hundred fifty thousand dollars~~
29 ~~adjusted annually for inflation for professional positions to:~~

30 ~~————— (1) Conduct internet website additions, corrections, and deletions;~~

31 ~~————— (2) Develop training programs for agencies;~~

32 ~~————— (3) Send regulatory alerts to interested small business subscribers;~~

33 ~~————— (4) Track small business comments regarding agencies and review and~~
34 ~~respond to the agency and small business accordingly;~~

35 ~~————— (5) Prepare for board meetings and hearings, including outreach, travel,~~
36 ~~agendas, and minutes;~~

37 ~~————— (6) Prepare member maintenance expense reports and appointments;~~

38 ~~————— (7) Analyze small business impact statements. After such analysis, the~~
39 ~~employee shall review such statements, offer suggestions, and work with~~
40 ~~agencies to meet the statute requirements;~~
41 ~~————— (8) Analyze biannual report reviews;~~
42 ~~————— (9) Conduct agency correspondence and training;~~
43 ~~————— (10) Conduct small business outreach by speaking at chamber and~~
44 ~~association events;~~
45 ~~————— (11) Review the Missouri Register and other sources to look for proposed~~
46 ~~rules that may affect small business.~~
47 ~~————— 4. Subject to appropriations, the board may receive additional funds for:~~
48 ~~————— (1) Upkeep of its internet website;~~
49 ~~————— (2) Information technology;~~
50 ~~————— (3) Mileage for board members;~~
51 ~~————— (4) Publication, printing, and distribution of annual reports;~~
52 ~~————— (5) Outreach costs; and~~
53 ~~————— (6) Expenses and equipment for the one and one-half full-time equivalent~~
54 ~~employee of the board.~~
55 ~~————— 5. A majority vote of the board members shall be required for the hiring,~~
56 ~~retention, and termination of board employees. All duties of board employees~~
57 ~~shall be dedicated solely to the support of and for the furtherance of the purpose~~
58 ~~and mission of the board.]~~

2 ~~[536.315. Any state agency receiving recommendations from the board~~
3 ~~shall promptly consider such recommendations and may file a response with the~~
4 ~~board within sixty days of receiving the board's recommendations. If the state~~
5 ~~agency determines that no action shall be taken on the board's recommendations,~~
6 ~~the agency should explain its reasons for its determination. If the state agency~~
7 ~~determines that the board's recommendations merit adoption, amendment or~~
8 ~~repeal of a rule, the agency should indicate this in its response.]~~

2 ~~[536.325. 1. The board shall provide to the head of each agency a list of~~
3 ~~any rules adopted by the agency that affect small business and have generated~~
4 ~~complaints or concerns, including any rules that the board determines may~~
5 ~~duplicate, overlap, or conflict with other rules or exceed statutory authority.~~
6 ~~Within forty-five days after being notified by the board the list of rules adopted,~~
7 ~~the agency shall submit a written report to the board in response to the complaints~~
8 ~~or concerns. The agency shall also state whether the agency has considered the~~
9 ~~continued need for the rules and the degree to which technology, economic~~
10 ~~conditions, and other relevant factors may have diminished or eliminated the~~
11 ~~need for maintaining the rules.~~

12 ~~————— 2. The board may solicit testimony from the public at a public meeting~~
13 ~~regarding any report submitted by the agency under this section or section~~
14 ~~536.175. The board shall electronically submit an evaluation report to the~~
15 ~~governor and the general assembly regarding small business comments, agency~~
~~response, and public testimony on rules in this section and the report shall be~~

16 ~~maintained on the board's website. The governor and the general assembly may~~
17 ~~take such action in response to the report as they find appropriate.]~~

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