

SECOND REGULAR SESSION

# SENATE BILL NO. 808

100TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR CRAWFORD.

Pre-filed December 30, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

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## 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.

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A. Sections 536.010, 536.050, 536.175, 536.300, 536.303, 536.305, 536.310, 536.315, 536.323, and 536.325, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 536.010, 536.050, 536.175, 536.300, and 536.323, to read as follows: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

[(5)] (4) The term "decision" includes decisions and orders whether

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 negative or affirmative in form;

18           [(6)] (5) "Rule" means each agency statement of general applicability that  
19 implements, interprets, or prescribes law or policy, or that describes the  
20 organization, procedure, or practice requirements of any agency. The term  
21 includes the amendment or repeal of an existing rule, but does not include:

22           (a) A statement concerning only the internal management of an agency  
23 and which does not substantially affect the legal rights of, or procedures available  
24 to, the public or any segment thereof;

25           (b) A declaratory ruling issued pursuant to section 536.050, or an  
26 interpretation issued by an agency with respect to a specific set of facts and  
27 intended to apply only to that specific set of facts;

28           (c) An intergovernmental, interagency, or intraagency memorandum,  
29 directive, manual or other communication which does not substantially affect the  
30 legal rights of, or procedures available to, the public or any segment thereof;

31           (d) A determination, decision, or order in a contested case;

32           (e) An opinion of the attorney general;

33           (f) Those portions of staff manuals, instructions or other statements  
34 issued by an agency which set forth criteria or guidelines to be used by its staff  
35 in auditing, in making inspections, in settling commercial disputes or negotiating  
36 commercial arrangements, or in the selection or handling of cases, such as  
37 operational tactics or allowable tolerances or criteria for the defense, prosecution,  
38 or settlement of cases, when the disclosure of such statements would enable law  
39 violators to avoid detection, facilitate disregard of requirements imposed by law,  
40 or give a clearly improper advantage to persons who are in an adverse position  
41 to the state;

42           (g) A specification of the prices to be charged for goods or services sold by  
43 an agency as distinguished from a license fee, or other fees;

44           (h) A statement concerning only the physical servicing, maintenance or  
45 care of publicly owned or operated facilities or property;

46           (i) A statement relating to the use of a particular publicly owned or  
47 operated facility or property, the substance of which is indicated to the public by  
48 means of signs or signals;

49           (j) A decision by an agency not to exercise a discretionary power;

50           (k) A statement concerning only inmates of an institution under the  
51 control of the department of corrections and human resources or the division of  
52 youth services, students enrolled in an educational institution, or clients of a

53 health care facility, when issued by such an agency;

54 (l) Statements or requirements establishing the conditions under which  
55 persons may participate in exhibitions, fairs or similar activities, managed by the  
56 state or an agency of the state;

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

60 [(7)] (6) "Small business" means a for-profit enterprise consisting of  
61 fewer than one hundred full- or part-time employees;

62 [(8)] (7) "State agency" means each board, commission, department,  
63 officer or other administrative office or unit of the state other than the general  
64 assembly, the courts, the governor, or a political subdivision of the state, existing  
65 under the constitution or statute, and authorized by the constitution or statute  
66 to make rules or to adjudicate contested cases.

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

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

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

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

19 (3) Requiring the person to exhaust any administrative remedy would  
20 result in undue prejudice because the person may suffer irreparable harm if  
21 unable to secure immediate judicial consideration of the claim. Provided,  
22 however, that the provisions of this subsection shall not apply to any matter

23 covered by chapters 288, 302, and 303; or

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

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

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

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

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

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

57 8. If a party or the state is dissatisfied with a determination of fees and  
58 other expenses made in an action brought pursuant to subsection 1 of this

59 section, that party or the state may, within the time permitted by law, appeal  
60 that order or judgment to the appellate court having jurisdiction to review the  
61 merits of that order or judgment. The appellate court's determination shall be  
62 based solely on the record made before the court below. The court may modify,  
63 reverse or reverse and remand the determination of fees and other expenses if the  
64 court finds that the award or failure to make an award of fees and other  
65 expenses, or the calculation of the amount of the award, was arbitrary and  
66 capricious, was unreasonable, was unsupported by competent and substantial  
67 evidence, or was made contrary to law or in excess of the court's  
68 jurisdiction. Awards made pursuant to this section shall be payable from  
69 amounts appropriated therefor. The state agency against which the award was  
70 made shall request an appropriation to pay for the award.

71 9. The general assembly or its designee shall have standing, in law or  
72 equity, to intervene in any existing action involving such challenge to agency  
73 action. Unless otherwise provided by resolution, the general assembly's designee  
74 is the joint committee on administrative rules who may, upon a concurrence of a  
75 majority of the committee's members, intervene in the name of the members of  
76 the committee in their representative capacity. Nothing in this section shall  
77 confer upon the committee any duty to so act or intervene.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 existence; and

55 (8) The nature of the comments received by the agency under subsection  
56 2 of this section, a summary of which shall be attached to the report as an  
57 appendix and shall include the agency's responses thereto.

58 5. Each agency with rules subject to review shall cause their report to be  
59 filed electronically with the joint committee on administrative rules [and the  
60 small business regulatory fairness board] no later than June thirtieth of the year  
61 after publication of agency review in the Missouri Register under subsection 2 of  
62 this section. The reports shall also be made available on the state agency's  
63 website. If the state agency fails to file the report as required by this section for  
64 any rule and has not received an extension for good cause from the joint  
65 committee on administrative rules, the joint committee on administrative rules  
66 shall notify the secretary of state to publish a notice as soon as practicable in the  
67 Missouri Register as to which rules the delinquency exists. The rule shall be void  
68 and of no further effect after the first sixty legislative days of the next regular  
69 session of the general assembly unless the state agency corrects the delinquency  
70 by providing the required review within ninety days after publication. Upon  
71 determination that the agency has complied with the requirements of this section  
72 regarding any delinquency that resulted in notice being published, the joint  
73 committee on administrative rules shall notify the secretary of state to remove  
74 the rule from the notice of rules scheduled to become null and void.

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

10 2. If the proposed rules affect small businesses, the state agency shall  
11 consider creative, innovative, or flexible methods of compliance for small business  
12 and prepare a small business impact statement to be submitted to the secretary  
13 of state and the joint committee on administrative rules with the proposed rules.  
14 [A copy of the proposed rules and the small business impact statement shall also  
15 be filed with the board on the same date as they are filed with the secretary of

16 state. Such business impact statement and proposed rules shall be submitted to  
17 the board prior to providing notice for a public hearing.] The statement shall  
18 provide a reasonable determination of the following:

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

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

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

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

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

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

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

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



52 state shall publish the rule.

53 4. [Sections] **Section** 536.300 [to 536.310] shall not apply where the  
54 proposed rule is being promulgated on an emergency basis, where the rule is  
55 federally mandated, or where the rule substantially codifies existing federal or  
56 state law. Notwithstanding the provisions of this section, federally mandated  
57 regulations are subject to the federal Regulatory Flexibility Act as amended by  
58 the Small Business Regulatory and Enforcement Fairness Act of 1996,  
59 P.L. 96-354, as amended by P.L. 104.121. Any federally mandated regulations  
60 that do not comply with these acts shall be subject to this section.

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

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

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

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

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

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

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

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

25 3. Upon submission of the petition, the agency shall forward a copy of the  
26 petition to the [board and the] joint committee on administrative rules, as  
27 required by section 536.041, as notification of a petition filed under sections

28 536.300 to 536.328. The agency shall promptly consider the petition and may  
29 seek advice and counsel regarding the petition. Within sixty days after the  
30 receipt of the petition, the agency shall determine whether the impact statement  
31 or public hearing addressed the actual and significant impact on small  
32 business. The agency shall submit a written response of the agency's  
33 determination [to the board] within sixty days of the receipt of the petition. If  
34 the agency determines that the petition merits the adoption, amendment, or  
35 repeal of a rule, it may initiate proceedings in accordance with the applicable  
36 requirements of this chapter.

37 [4. If the agency determines that the petition does not merit the adoption,  
38 amendment, or repeal of a rule, any affected small business may seek a review  
39 of the decision by the board. The board may convene a hearing or by other means  
40 solicit testimony that will assist in its determination of whether to recommend  
41 that the agency initiate proceedings in accordance with this chapter. For rules  
42 adopted after August 28, 2005, the board shall base its recommendations on any  
43 of the following reasons:

- 44 (1) The actual effect on small business was not reflected in or significantly  
45 exceeded the impact statement submitted prior to the adoption of the rule;  
46 (2) The impact statement did not consider new or significant economic  
47 information that reveals an undue impact on small business;  
48 (3) Such impacts were not previously considered by the agency; or  
49 (4) Such impacts were not previously considered at the public hearing on  
50 the rules.

51 5. For rules adopted prior to August 28, 2005, the board shall base its  
52 recommendations on any of the following reasons:

- 53 (1) The rules created an undue barrier to the formation, operation, and  
54 expansion of small businesses in a manner that significantly outweighs its benefit  
55 to the public;  
56 (2) The rules duplicate, overlap, or conflict with rules adopted by the  
57 agency or any other agency or violate the substantive authority under which the  
58 rules were adopted; or  
59 (3) The technology, economic conditions, or other relevant factors  
60 justifying the purpose for the rules have changed or no longer exist.

61 6. The board shall make an evaluation report to the governor and the  
62 general assembly on rulemaking proceedings, comments from small business, and  
63 agency response as provided in this section. The governor or general assembly

64 may subsequently take such action in response to the evaluation report and  
65 agency response as they find appropriate.]

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

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

8 (2) A summary of the public and small business comments;

9 (3) A summary of the agency's response to those comments;

10 and

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

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

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

4 2. The board shall be composed of nine members appointed  
5 in the following manner:

6 (1) One member who is the chair of the minority business  
7 advocacy commission;

8 (2) One member appointed by the president pro tempore of  
9 the senate;

10 (3) One member appointed by the minority leader of the  
11 senate;

12 (4) One member appointed by the speaker of the house of  
13 representatives;

14 (5) One member appointed by the minority leader of the  
15 house of representatives; and

16 (6) Four members appointed by the governor.

17 3. Each member of the board, except for the public members  
18 and the chair of the minority business advocacy commission, shall

19 be a current or former owner or officer of a small business. All  
20 members of the board shall represent a variety of small businesses,  
21 both rural and urban, and be from a variety of geographical areas  
22 of this state, provided that no more than two members shall  
23 represent the same type of small business.

24 4. Members of the board shall serve a term of three years  
25 and may be reappointed at the conclusion of the term. No member  
26 shall serve more than three consecutive terms. Appointments shall  
27 be made so that one-third of the membership of the board shall  
28 terminate each year. The governor shall appoint the initial  
29 chairperson of the board and a majority of the board shall elect  
30 subsequent chairpersons. The chairperson shall serve as chair for  
31 a term of not more than two years.

32 5. Members of the board shall serve without compensation,  
33 but may be reimbursed for reasonable and necessary expenses  
34 relating to their performance of duties, according to the rules and  
35 regulations of travel issued by the office of  
36 administration. Members will be required to submit an expense  
37 account form in order to obtain reimbursement for expenses  
38 incurred.

39 6. The board shall meet as often as necessary, as  
40 determined by the chairperson of the board. All meetings of the  
41 board will be conducted in accordance with the governmental  
42 bodies and records act, chapter 610, including closed  
43 sessions. Notice will be posted and will be provided to the joint  
44 committee on administrative rules. Minutes of the meetings shall  
45 be provided to all members, the office of the governor, and the joint  
46 committee on administrative rules.

47 7. In addition to any other powers provided by sections  
48 536.300 to 536.328, the board may adopt any rules necessary to  
49 implement sections 536.300 to 536.328 and take any action  
50 necessary to effectuate the purposes of sections 536.300 to  
51 536.328. Any rule or portion of a rule, as that term is defined in  
52 section 536.010, that is created under the authority delegated in  
53 this section shall become effective only if it complies with and is  
54 subject to all of the provisions of this chapter and, if applicable,

55 section 536.028. This section and this chapter are nonseverable  
56 and if any of the powers vested with the general assembly pursuant  
57 to this chapter to review, to delay the effective date, or to  
58 disapprove and annul a rule are subsequently held  
59 unconstitutional, then the grant of rulemaking authority and any  
60 rule proposed or adopted after August 28, 2005, shall be invalid  
61 and void.]

[536.310. 1. The board shall:

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

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

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

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

18 (1) The rule creates an undue barrier to the formation,  
19 operation, and expansion of small businesses in a manner that  
20 significantly outweighs the rule's benefits to the public; or

21 (2) New or significant economic information indicates the  
22 proposed rule would create an undue impact on small businesses;  
23 or

24 (3) Technology, economic conditions, or other relevant  
25 factors justifying the purpose for the rule has changed or no longer  
26 exists; or

27 (4) If the rule was adopted after August 28, 2004, whether  
28 the actual effect on small businesses was not reflected in or  
29 significantly exceeded the small business impact statement

30 submitted prior to the adoption of the rules.

31 3. Subject to appropriations, by a majority vote of the  
32 board, the board may hire a one-half full-time equivalent employee  
33 for clerical support and a full-time equivalent employee with total  
34 salaries funded from the department of economic development  
35 appropriations up to one hundred fifty thousand dollars adjusted  
36 annually for inflation for professional positions to:

37 (1) Conduct internet website additions, corrections, and  
38 deletions;

39 (2) Develop training programs for agencies;

40 (3) Send regulatory alerts to interested small business  
41 subscribers;

42 (4) Track small business comments regarding agencies and  
43 review and respond to the agency and small business accordingly;

44 (5) Prepare for board meetings and hearings, including  
45 outreach, travel, agendas, and minutes;

46 (6) Prepare member maintenance expense reports and  
47 appointments;

48 (7) Analyze small business impact statements. After such  
49 analysis, the employee shall review such statements, offer  
50 suggestions, and work with agencies to meet the statute  
51 requirements;

52 (8) Analyze biannual report reviews;

53 (9) Conduct agency correspondence and training;

54 (10) Conduct small business outreach by speaking at  
55 chamber and association events;

56 (11) Review the Missouri Register and other sources to look  
57 for proposed rules that may affect small business.

58 4. Subject to appropriations, the board may receive  
59 additional funds for:

60 (1) Upkeep of its internet website;

61 (2) Information technology;

62 (3) Mileage for board members;

63 (4) Publication, printing, and distribution of annual reports;

64 (5) Outreach costs; and

65 (6) Expenses and equipment for the one and one-half

66 full-time equivalent employee of the board.

67 5. A majority vote of the board members shall be required  
68 for the hiring, retention, and termination of board employees. All  
69 duties of board employees shall be dedicated solely to the support  
70 of and for the furtherance of the purpose and mission of the board.]

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

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

13 2. The board may solicit testimony from the public at a  
14 public meeting regarding any report submitted by the agency under  
15 this section or section 536.175. The board shall electronically  
16 submit an evaluation report to the governor and the general  
17 assembly regarding small business comments, agency response, and  
18 public testimony on rules in this section and the report shall be  
19 maintained on the board's website. The governor and the general  
20 assembly may take such action in response to the report as they  
find appropriate.]