

M I S S O U R I

Department of Economic Development

Jeremiah W. (Jay) Nixon
Governor

David Kerr
Director

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

May 17, 2011

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Mr. Adam Crumbliss
Chief Clerk of the House
Missouri House of Representatives
201 West Capitol Ave, Room 306 C
Jefferson City, MO 65101

Ms. Terry Spieler
Secretary of the Senate
Missouri State Senate
201 W. Capitol Ave. Room 325
Jefferson City, MO 65101

Small Business Regulatory Fairness Board
Department of Economic Development
301 W. High Street
Jefferson City, MO 65102

Re: Biennial Rules Report

Dear Sir or Madam:

In accordance with § 536.325, RSMo, the Missouri Department of Economic Development ("Department") provides the following report pertaining to those Department rules that "affect small business" as that term is defined by 536.010(1). After careful review of its rules, and in light of the below statutory provisions, the Department reports that none of its existing or proposed rules "affect small business."

Section 536.325.1, RSMo, provides:

Each agency with rules that affect small business shall submit by June thirteenth of each odd-numbered year a list of such rules to the general assembly and the board. The agency shall also submit a report describing the specific public purpose or interest for adopting the respective rules and any other reasons to justify its continued existence. The general assembly may subsequently take such action in response to the report as it finds appropriate.

536.010(1) defines "affect small business" as follows:

... 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

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business or minority small business, or that is directly related to the formation, operation, or expansion of a small business.

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A "small business" is a "for-profit enterprise consisting of fewer than one hundred full- or part-time employees." 536.010(7).

The Department does not have any existing or proposed rules that relate to the formation, operation, or expansion of a small business. Additionally, the only Department rules that potentially relate to small business in some other way are those pertaining to the Department's economic development incentive programs. The following programs are the only ones that allow for small business participation and that also have corresponding rules:

Certified Capital Companies – 4 CSR 80-7.010 through 4 CSR 80-7.040;

Neighborhood Assistance – 4 CSR 85-2.010 through 4 CSR 85-2.050;

Enterprise Zone – 4 CSR 85-3.010 through 4 CSR 85-3.050;

Historic Preservation – 4 CSR 85-5.010 through 4 CSR 85-5.030;

Job Development Fund Training – 4 CSR 195-2.010 through 4 CSR 195-2.030;

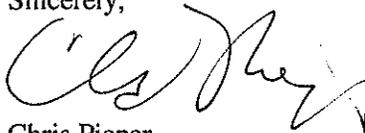
Missouri Bond Funded Industry Training – 4 CSR 195-3.010 through 4 CSR 195-3.020; and

Entrepreneurial Development Council – 4 CSR 85-7.010

The above rules outline eligibility requirements for businesses to participate in economic development programs and to maintain program eligibility once enrolled. Participation in these programs, however, is entirely voluntary, and the above rules only apply if a business chooses to participate. As such, the corresponding rules are merely conditions for availing oneself of state tax benefits rather than "requirements imposed." Thus, the Department does not have any rules that "affect small business" for purposes of §§ 536.010(1) and 536.325.1, RSMo.

In sum, none of the Department's existing or proposed rules "affect small business" as that term is defined by § 536.010(1), RSMo. If you would like the Department to provide further information on those rules pertaining to economic development programs small businesses may potentially participate in, the Department is happy to do so upon request.

Sincerely,



Chris Pieper
General Counsel
Missouri Department of Economic Development