

# **Small Business Regulatory Fairness Board**

## **GoToMeeting Board Meeting**

**Truman State Office Building  
Room 680, Conference Room  
Jefferson City, MO**

**February 23, 2011**

Members Attending: Chair Nancy Zurbuchen, Kansas City; Vicki Englund, St. Louis; Sheila Forrest, St. Louis; Scott George, Mt. Vernon; Vice Chair Shane Libel, St. Joseph; Micheal Ocello, St. Louis; Jim Seigfreid, Warrensburg; and Sheila Sweeney, St. Louis.

Members Absent: Bob Bess, St. Louis.

State Agency Liaisons Present: Denise Bateman, Department of Conservation; Marty Exline, Department of Public Safety; Bret Fischer, Department of Health and Senior Services; Shelly Kintzel, Dept. of Labor and Industrial Relations; James Klahr, Department of Public Safety; Melissa Manda, Department of Mental Health; and Christopher Polley, Department of Higher Education.

Staff Agency Liaisons not present: Connie Clarkston, Professional Registration; Grady Martin, Dept. of Insurance, Financial Institutions and Professional Registration; Julie Murphy Finn, Dept. of Economic Development; Matt Sturm, Dept. of Corrections; Leanne Tippett Mosby, Dept. of Natural Resources; and Michael Warrick, Dept. of Agriculture.

DED Staff Present: Sherry L. Anderson, DED-Boards and Commissions Liaison and Vicki Webster, DED-Assistant General Counsel.

Chair Zurbuchen called the conference call meeting to order at 9:00 a.m. She welcomed fellow board members and State Agencies attending the conference call. Roll call was conducted.

### **Board Business Meeting**

#### January 26, 2011 Meeting Minutes

The minutes of the SBRFB January 26, 2011 Meeting Minutes were not received by the Board prior to the meeting, and since we are on a conference call the minutes will be distributed and addressed at our next meeting.

#### SBRFB Draft Letter to Governor Nixon

Chair Zurbuchen thanked Ms. Englund and Mr. Libel for drafting the SBRFB letter to be sent to Governor Nixon. Chair Zurbuchen stated the letter clearly addresses the issues that have been presented to SBRFB from small business owners (Willistons, Ms. Henman and birthing

community) and the frustration they have experienced with the Department of Health and Senior Services (DHSS).

Chair Zurbuchen stated the letter articulates the SBRFB's role as an arbitrator and between the small business owner and DHSS, and the Board's concerns that DHSS has not been forthcoming or provided guidance in assisting the small business owners through DHSS regulatory maze.

Ms. Englund stated she did work diligently on the letter and tried to separate what can be or should be addressed by the rulemaking process and what issues can only be addressed statutorily.

The Board members collectively agreed the DHSS staff has at times not been cooperative and after many months the small business owners have not been able to move forward with opening the birthing center.

Chair Zurbuchen asked Ms. Webster (DED, Assistant General Counsel) to analyze and provide the Board members with an opinion of DHSS's statutes as stated in their correspondence regarding definitions of ambulatory surgical center and physician staffing, and any other statutes cited by DHSS.

Chair Zurbuchen and Mr. George stated perhaps DHSS is blocking birthing centers from operating in Missouri because the DHSS has not provided the agreed-to (as per the discussion with DHSS at our last SBRFB meeting) guidance or assistance regarding waivers as asked by the Willistons. Mr. Seigfreid suggested the SBRFB set up a meeting with the SBRFB, DHSS and the Willistons to go through the waiver requests and why the DHSS can or cannot issue waivers. The Board members agreed that the DHSS needs to reach out to Willistons and state clearly what steps they should take to obtain the waiver(s) they need to open their birthing center.

The Board members also agreed that it was imperative that the appropriate DHSS staff members attend the SBRFB meetings to answer questions.

Ms. Englund suggested that a copy of the SBRFB letter to Governor Nixon be sent to the following people: Cindy Kadlec, Director, Joint Committee on Administrative Rules; Margaret Donnelly, Director, Department of Health and Senior Services; House Small Business Committee members; Senate Small Business, Insurance and Industry Committee; Senator Victor Callahan, District 11 (Senatorial District where the Willistons reside); and Representative Ira Anders, House District 51 (House of Representative District where the Willistons reside).

A motion was made by Mr. George and seconded by Mr. Ocello to approve the letter with revisions as approved by the SBRFB members and before sending the revised letter to Governor Nixon that the final letter be sent to the SBRFB members for final approval. Motion was unanimous.

#### Legislative Update

Chair Zurbuchen updated the Board members regarding Senate Bill 182, sponsored by Senator Luann Ridgeway-District 17. The bill allows the SBRFB to hire a one-half full-time and a full-time equivalent employee for clerical support and for a professional position subject to

appropriation. This is in line with the original estimates of support requirements when the SBRFB was created. The Senate Small Business Committee conducted a hearing on February 22 with all business groups (Missouri Chamber of Commerce, National Federation of Independent Businesses; and Associated Industries) standing in support of the bill. A similar bill will be filed in the House of Representatives.

Chair Zurbuchen did offer the following FYI to the Board members. She stated that the SBRFB, as a whole entity may not take a position on the Senate Bill 182, but a Board member individually can take a position.

#### Annual Report

The Board members discussed changing the SBRFB annual reporting practice from a fiscal rotation (July 1 to June 30) to a calendar rotation (January 1 to December 31). Mr. George explained the reason the SBRFB members established a fiscal rotation in 2005 was to give the Board time to create the annual report for distribution to the legislators the first week of each new session (January.) If the annual report is not distributed until late spring, it is not worth much by then to us, the departments, or the legislature. Mr. George also expressed his desire for the Board to continue the same practice.

The Board members discussed the calendar option which would result in the 2010 Annual Report covering an 18 month period.

A motion was made by Mr. George and seconded by Ms. Englund to continue the SBRFB Annual fiscal year activities rotation. Motion was adopted with one dissenting vote by Ms. Sweeney.

The next SBRFB meeting will be a conference call on Wednesday, March 23 from 9:30 to 11:00. Mr. Ocello announced he will not be available for the meeting and Ms. Forrest stated she will be joining the call after 10:00.

Chair Zurbuchen announced the SBRFB will meet April 20<sup>th</sup> in Jefferson City.

With no further business to be discussed, a motion was made by Mr. George and seconded by Ms. Forrest to adjourn the meeting. The motion was adopted. The meeting was adjourned at 10:30.

Minutes approved by the Board  
March 23, 2011