

Small Business Regulatory Fairness Board Small Business Impact Statement

Date: September 17, 2009

Rule Number: 20 CSR 2120-2.100 Fees

Name of Agency Preparing Statement: State Board of Embalmers and Funeral Directors

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Name of Person Approving Statement: Jane Rackers

Please describe the methods your agency considered or used to reduce the impact on small businesses (*examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique*).

As required by section 333.111, RSMo fees are to be set at a level which does not substantially exceed the cost of administering the provisions of Chapter 333, RSMo and sections 436.400 to 436.520, RSMo. Additionally, section 333.231, RSMo, requires the excess to be transferred and placed to the credit of general revenue. The State Board of Embalmers and Funeral Directors regularly monitors its fund balance in an effort to maintain its balance below the "sweep" amount but also at a level to handle fluctuations in revenue and expenditures. The board constantly tries to keep license fees at the lowest level possible to maintain the necessary functions of the board.

A part of the legislative process requires state agencies to estimate the potential cost to the agency should the potential legislation pass. During the fiscal analysis of SB1, 5 scenarios were evaluated and the following concerns were noted:

- Prior to SB1, the board anticipated a fee increase would be needed by FY12 in order for the board to maintain an adequate fund balance; and
- Due to the collapse of National PreArranged Services (NPS) fewer preneed contracts were sold in the state of Missouri in FY09; thereby, reducing the board's revenue.

During the fiscal review and analysis the following scenarios and costs were considered:

Scenario	Anticipated Expenditure	Fees						Per contract Fee	Total Revenue
		Initial Applications			Renewal				
		Sellers	Provider s	Agents	Sellers	Provider s	Agents		
Scenario 1 (Supported by Contract Services during the first year - then fully supported by Scenario 2)	\$703,019	\$200	\$100	\$50	\$200	\$100	\$50	\$36	\$756,000
Scenario 2 (Full Supported by Board Staff/No Contract Services)	\$472,959	\$200	\$100	\$50	\$200	\$100	\$50	\$23	\$535,000
Scenario 3 (Supported by contract services & CIU/no additional board staff)	\$598,091	\$200	\$100	\$50	\$200	\$100	\$50	\$30	\$654,000

A copy of the legislative fiscal note can be obtained on the SB1 (2009) Senate website at <http://www.moga.mo.gov/Oversight/OVER09/fishtm/0404-09T.ORG.htm>. These scenarios were presented by Connie Clarkston, Director of Budget and Legislation and Sherry Hess, Director of Financial Services at the board's August 25, 2009 meeting. Ms. Clarkston was also available for the board's discussion during the September 2-3, 2009 meeting. Following the fiscal presentation at both meetings, the board held discussions wherein members of the board and the public could ask questions or express concerns. Members of the public expressed concern regarding the per contract fee that is currently \$2.00 being increased to \$36.00. However, in order for the board to collect the amount of revenue needed to support its enforcement responsibilities, the fees established in the rule were adopted by the board.

Please explain how your agency has involved small businesses in the development of the proposed rule.

See attached 9/1/09 memorandum.

The following members of the public were in attendance for the discussion of the proposed amendment:

August 25, 2009

Amy Battagler, Stewart Enterprises
 DJ Gross, Duncan Funeral Home
 Rep. Timothy Meadows, 101st District
 Chris Moody, Service Corporation, Inc.

Jim Moody, Service Corporation, Inc.
Don Otto, Missouri Funeral Director and Embalmer Association
Darlene Russell, CFL Preneed
Bill Statler, Statler Legal
Brad Speaks, Speaks Funeral Home
Ann Warren, Insurance Coalition
Stephen Zell, Associated Cemeteries of Missouri

September 2-3, 2009

Amy Battagler, Stewart Enterprises
DJ Gross, Duncan Funeral Home
Rep. Timothy Meadows, 101st District
John Moore, Moore Funeral Home
Don Otto, Missouri Funeral Director and Embalmer Association
Darlene Russell, CFL Preneed
Bill Statler, Statler Legal
Brad Speaks, Speaks Funeral Home
Mark Warren, Insurance Coalition

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

The board estimates that approximately 30,000 preneed contracts were sold during the 2009 reporting period. Due to the collapse of NPS the board anticipates the number of preneed contracts sold in the state of Missouri will decrease. The board estimates 17,000 preneed contracts will be sold during the 2010 reporting period. Sellers will now be required by board rule to pay a \$36.00 per contract fee as part of the annual reporting requirements.

Beginning with the submission of applications preneed sellers, preneed providers and preneed agents will be required to submit an application fee. A fiscal note has been filed in accordance with section 536.205, RSMo. The additional revenue will allow the board to fulfill the enforcement responsibilities authorized by SB1.

The board will monitor its revenue and expenditures closely and hopes to reduce the per contract fee for future reporting periods.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

As defined by 333.011 of SB1, the preneed seller is the person who sells a preneed contract to a consumer and is obligated to collect and administer all payments made under the contract; and the preneed provider is the person obligated to provide the disposition and funeral services, facilities, or merchandise described in the preneed contract.

SB1 authorized the board to establish fees by rule in order for the board to maintain a fund balance below the "sweep" amount but also at a level to handle fluctuations in revenue and expenditures. Under the repealed section 436.069, RSMo, preneed sellers were required to submit an annual report to the board office summarizing the number of contracts sold along with a \$2.00 reporting fee for each contract sold. The proposed rule will now require sellers to pay a \$36.00 per contract fee as part of their annual reporting requirements. Preneed sellers, preneed providers and preneed agents will now be required to submit an application fee as established by rule with their application versus the annual reporting fees that were established in section 436.069, RSMo which was repealed by SB1. Applicants will also incur notary and postage fees associated with the submission of the applications.

A fiscal note has been filed in accordance with section 536.205, RSMo.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

Preneed providers and preneed sellers have been maintaining records for the last reporting year in anticipation of submitting information as required by the repealed sections of 436.069, RSMo. Preneed providers and preneed sellers will benefit by being allowed to submit annual reports containing information that was required under the repealed section of 436.069, RSMo, for the October 2009 reporting period.

Some sellers have indicated the per contact fee will be passed on to the consumer as part of the preneed contract, however, it should be noted that this is the seller's business decision and not mandated by rule.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Preneed providers and preneed sellers licensed by the State Board of Embalmers and Funeral Directors.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes ___ No X

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.