

Michigan Department of Licensing and Regulatory Affairs
Office of Regulatory Reinvention
111 S. Capitol Ave.; 4th Floor, Romney Building
PO Box 30004; Lansing, MI 48909
Phone (517) 335-8658 FAX (517) 335-9512

**REGULATORY IMPACT STATEMENT
and
COST-BENEFIT ANALYSIS**

PART 1: INTRODUCTION

In accordance with the Administrative Procedures Act (APA) [1969 PA 306], the department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions should be made by the departmental Regulatory Affairs Officer (RAO) to **orr@michigan.gov**. The ORR will review the form and send its response to the RAO (see last page). Upon review by the ORR, the agency shall make copies available to the public at the public hearing [MCL 24.245(4)].

Please place your cursor in each box, and answer the question completely.

ORR-assigned rule set number:

2012-119 SP

ORR rule set title:

Public Safety Officers Benefit Program

Department:

Michigan State Police

Agency or Bureau/Division

Michigan Commission on Law Enforcement Standards (MCOLES)

Name and title of person completing this form; telephone number:

John F. Szczubelek (517) 322-5435

Reviewed by Department Regulatory Affairs Officer:

Sgt. Aimee Maike (517) 241-1906

PART 2: APPLICABLE SECTIONS OF THE APA

MCL 24.207a “Small business” defined.

Sec. 7a.

“Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.”

MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).

Sec. 40.

(1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

(a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.

(b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

(c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.

(d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

(a) 0-9 full-time employees.

(b) 10-49 full-time employees.

(c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

MCL 24.245 (3) “Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** containing...” (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5.]

MCL 24.245b Information to be posted on office of regulatory reinvention website.

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
 - (b) Instructions on any existing administrative remedies or appeals available to the public.
 - (c) Instructions regarding the method of complying with the rules, if available.
 - (d) Any rules filed with the secretary of state and the effective date of those rules.
- (2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

PART 3: DEPARTMENT/AGENCY RESPONSE

Please place your cursor in each box, and provide the required information, using complete sentences. Please do not answer the question with “N/A” or “none.”

Comparison of Rule(s) to Federal/State/Association Standards:

(1) Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, and describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

R 28.14965 does not impose regulatory requirements that exceed any comparable federal administrative rules. Nor does R 28.14965 impose regulatory requirements that exceed state standards in the comparable states of Ohio, Indiana, Wisconsin or Minnesota.

Federal: Congress has established a Federal Public Safety Officers Benefit Act, 42 USC 3796 *et seq.*, that authorizes payment of a death or disability benefit for law enforcement officers killed or injured in the line of duty. Supporting federal administrative rules, 28 CFR 32.41 through 32.46, provide for an evidentiary hearing to appeal a decision of the federal Bureau of Justice Assistance on a claim for benefits.

Ohio: Ohio does not have a comparable benefit program administered by its state government.

Indiana: Indiana has a comparable benefit program, provided in the Police Officers' and Firefighters' Pension and Disability Fund, IC 36-8-8-0.1 *et seq.* The Indiana statute authorizes an evidentiary hearing for benefit determinations. IC 36-8-8-12.7.

Wisconsin: Wisconsin does not have a comparable benefit program administered by its state government.

Minnesota: Minnesota has a comparable benefit program, provided in the Public Safety Officer's Survivor Benefits Act, Minn Stat § 299A.41 *et seq.* This statute includes a provision authorizing an evidentiary hearing to contest a denial of a benefit. Minn Stat § 299A.43.

(2) Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities. If the rule(s) exceed standards in those states, please explain why, and specify the costs and benefits arising out of the deviation.

See item 1.

(3) Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s). Explain how the rule has been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The Michigan Public Safety Officers Benefit Act (Michigan PSOB Act), MCL 28.631 *et seq.*, provides death and disability benefits that duplicate similar benefits under the federal Public Safety Officers Benefit Act, 42 USC 3796 *et seq.* Furthermore, under R 28.14956, MCOLES is to give “substantial weight” to a determination made by the Bureau of Justice Assistance for comparable federal benefits.

Purpose and Objectives of the Rule(s):

(4) Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s).

Describe the difference between current behavior/practice and desired behavior/practice. What is the desired outcome?

Under R 28.14965, an individual denied a benefit under the Michigan PSOB Act may obtain an evidentiary hearing within the Michigan Administrative Hearing System for reconsideration of the adverse decision. The rescission of R 28.14965 will eliminate these evidentiary hearings. Generally, administrative law evidentiary hearings are not required for administrative proceedings other than rate-making, price-fixing, and licensing. MCL 24.203(3). After the rescission, individuals may obtain judicial review of a denial for benefits using section 631 the Revised Judicature Act, MCL 600.631.

(5) Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for changing the rule(s) and not leaving them as currently written?

Rescission of R 28.14965 will eliminate unnecessary expenses incurred for MCOLES staff time, legal expenses, and services provided by the Michigan Administrative Hearing System.

(6) Describe how the proposed rule(s) protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

After the rescission of R 28.14965, individuals remain entitled to judicial review of a denial for benefits using section 631 of the Revised Judicature Act, MCL 600.631.

(7) Describe any rules in the affected rule set that are obsolete, unnecessary, and can be rescinded.

R 28.14965 is the only rule that requires rescission for purposes of eliminating evidentiary hearings.

Fiscal Impact on the Agency:

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, an increase in the cost of a contract, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It would not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

(8) Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings on the agency promulgating the rule).

Rescinding R 28.14965 will eliminate unnecessary expenses incurred for MCOLES staff time, legal expenses, and services provided by the Michigan Administrative Hearing System.

(9) Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

Funding for the Michigan PSOB Act is provided through an annual appropriation to MCOLES, under MCL 28.637.

Impact on Other State or Local Governmental Units:

(10) Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions on other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Please include the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring.

None.

(11) Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s). Describe any actions that governmental units must take to be in compliance

with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

None.

(12) Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rule(s).

None.

Rural Impact:

(13) In general, what impact will the rules have on rural areas? Describe the types of public or private interests in rural areas that will be affected by the rule(s).

None.

Environmental Impact:

(14) Do the proposed rule(s) have any impact on the environment? If yes, please explain.

None.

Small Business Impact Statement:

[Please refer to the discussion of "small business" on page 2 of this form.]

(15) Describe whether and how the agency considered exempting small businesses from the proposed rules.

None.

(16) If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rule(s) on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule(s) upon small businesses as described below (in accordance with MCL 24.240(1)(A-D)), or (b) the reasons such a reduction was not lawful or feasible.

N/A

(A) Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

N/A

(B) Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

N/A

(C) Describe how the agency consolidated or simplified the compliance and reporting requirements and identify the skills necessary to comply with the reporting requirements.

N/A

(D) Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

(17) Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

N/A

(18) Identify the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule(s).

N/A

(19) Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

(20) Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

N/A

(21) Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

N/A

(22) Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

N/A

(23) Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

N/A

(24) Describe whether and how the agency has involved small businesses in the development of the proposed rule(s). If small business was involved in the development of the rule(s), please identify the business(es).

N/A

Cost-Benefit Analysis of Rules (independent of statutory impact):

(25) Estimate the actual statewide compliance costs of the rule amendments on businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s). What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

None.

(26) Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Please include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping). How many and what category of individuals will be affected by the rules? What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

None.

(27) Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

None.

(28) Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Please provide both quantitative and qualitative information, as well as your assumptions.

None.

(29) Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

N/A

(30) Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

N/A

(31) Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of a proposed rule(s) and a cost-benefit analysis of the proposed rule(s). How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

Research of applicable administrative rules and statutes.

Alternatives to Regulation:

(32) Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. In enumerating your alternatives, please include any statutory amendments that may be necessary to achieve such alternatives.

None.

(33) Discuss the feasibility of establishing a regulatory program similar to that proposed in the rule(s) that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

There are no private alternatives to this program.

(34) Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rule(s). This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

N/A

Additional Information

(33) As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

None.

PART 4: REVIEW BY THE ORR

Date Regulatory Impact Statement (RIS) received:

3/6/2013

Date RIS approved:

3/12/2013

ORR assigned rule set number:

2012-119 SP

Date of disapproval:

Explain:

More information needed:	Explain:

(ORR-RIS October 2012)