

**MEMORANDUM**

TO: Joseph Kirk, Ohio Department of Public Safety

FROM: Emily Kaylor, Director of Regulatory Policy

DATE: January 9, 2018

RE: CSI Review – Deputy Registrar Rules (OAC 4501:1-6-06 through 4501:1-6-11)

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of six new rules submitted by the Ohio Department of Public Safety (ODPS) regarding deputy registrar businesses. It was submitted to the CSI Office on November 13, 2017. The comment period closed on November 27, 2017 with 131 comments received. The Department provided a response to the comments on December 8, 2017.

The proposed rules are necessary to comply with House Bill 26 of the 132nd General Assembly which mandated the Department to adopt rules pertaining to deputy registrars. Specifically these rules cover optional services such as vending machines, third-party advertising, and convenience fees for services provided to enhance customer experiences. The rules also establish the deputy registrar fee, multi-year vehicle registration fees, and advertising that some of the proceeds collected are directed to a certain charitable organization.

In Ohio, deputy registrars are independent contractors and are selected on a competitive basis using a Request for Proposal process. The impacted community for these rules includes all deputy registrar businesses operating under contract with the Ohio Bureau of Motor Vehicles for over-the-counter driver licenses and vehicle registration services. The rules establish optional services

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the deputy registrars may provide which would include costs and potentially generate additional revenue. For example, if a deputy registrar chooses to operate a convenience service such as a drive-through window, they may have to renovate their office space and staff the window. ODPS does not estimate these costs in the BIA as they vary based on the deputy registrar location and services they choose to provide. Additionally, although House Bill 26 authorized ODPS to increase the transaction fee deputy registrars may charge consumers, ODPS is not increasing the fee from its current \$3.50. The adverse impact of this piece of the rules is that it limits the amount of revenue a deputy registrar may generate, so if deputy registrars cannot find sufficient means of revenue, they may be forced to end their contracts with ODPS or lay off staff. In the case of a deputy registrar ending a contract, ODPS will evaluate the viability of continuing an agency at that location and make the location available for bid if they so choose.

For stakeholder outreach, ODPS held six public stakeholder meetings across the state. Deputy registrars and their employees attended to provide testimony and ask questions. Through these stakeholder meetings, ODPS received significant testimony regarding the proposed \$3.50 transaction fee. Additionally, during the CSI comment period, 131 comments were received from deputy registrars, their employees, and the public. These comments also advocated for an increase in the deputy registrar fee. Some commenters also brought up issues such as the profitability of vending machines, advertising for insurance, and multi-year vehicle registration fees. The Department responded to clarify the concerns and explain that some of the suggestions from commenters are prohibited by statute, such as advertising for insurance companies which is prohibited by ORC 4507.01(C). In regards to the concerns about a lack of a deputy registrar fee increase from the current \$3.50, the Department cites ORC 4503.038 which states that the Department shall consider inflation and any other relevant factors. While the Department acknowledges that operating costs have increased since the last fee increase, they considered this in their evaluation and weighed it against the alternative sources of revenue available to deputy registrars in these rules, such as vending machines, convenience fees, and third-party advertising. Additionally, in follow up, the Department explained that they are transparent in their contracts with deputy registrars and through the rulemaking process.

The CSI process is meant to ensure that agencies engage their stakeholders and properly consider their input while also justifying the rules' adverse impacts. After reviewing the proposed rules and the BIA, the CSI Office has determined that the process satisfactorily meet the standards espoused by the CSI Office.

Recommendation

For the reasons explained above, the CSI office does not have any recommendations for this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Ohio Department of Public Safety should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.