

108TH CONGRESS
1ST SESSION

H. R. 1772

To improve small business advocacy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 11, 2003

Mr. AKIN (for himself and Mr. SCHROCK) introduced the following bill; which was referred to the Committee on Small Business

A BILL

To improve small business advocacy, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Advo-
5 cacy Improvement Act of 2003”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Excessive regulations continue to burden
9 the Nation’s small businesses.

10 (2) Federal agencies continue to propose regu-
11 lations that impose disproportionate burdens on
12 small businesses.

1 (3) An independent office of small business ad-
2 vocacy will help to ensure that Federal agencies are
3 responsive to small businesses and that those agen-
4 cies comply with their statutory obligations with re-
5 spect to small businesses.

6 (4) The independence of an office that acts as
7 an advocate for small businesses is essential to en-
8 sure that it can serve as an effective advocate with-
9 out being restricted by the views or policies of the
10 Small Business Administration or any other Federal
11 executive branch agency.

12 (5) To be effective an office that acts as an ad-
13 vocate for small businesses needs sufficient resources
14 to conduct creditable economic studies and research
15 which are necessary for the maintenance of small
16 business databases and for the accurate assessment
17 of the impact of regulations on small businesses, the
18 role of small business in the Nation's economy, and
19 the barriers to the growth of small businesses.

20 (6) The research, information, and expertise
21 provided by an independent office of small business
22 advocacy will be a valuable source of information
23 and advice for Congress and Federal agencies with
24 which the office will work on behalf of small busi-
25 nesses.

1 (b) PURPOSES.—The purposes of this Act are—

2 (1) to ensure that there exists an entity that
3 has the statutory independence and adequate finan-
4 cial resources to effectively advocate for and on be-
5 half of small business;

6 (2) to require that such an entity report to the
7 Chairmen and Ranking Members of the Committee
8 on Small Business of the House of Representatives
9 and the Committee on Small Business and Entrepre-
10 neurship of the Senate, and to the Administrator of
11 the Small Business Administration in order to keep
12 them fully and currently informed about issues and
13 regulations affecting small business concerns and the
14 necessity for corrective action by the regulatory
15 agency or Congress;

16 (3) to provide a separate authorization for ap-
17 propriations for such an entity; and

18 (4) to strengthen the role of the Small Business
19 and Agriculture Regulatory Enforcement Ombuds-
20 man by ensuring continued cooperation between the
21 Ombudsman and the Office of Advocacy of the
22 Small Business Administration.

23 **SEC. 3. APPOINTMENT OF CHIEF COUNSEL OF ADVOCACY.**

24 (a) IN GENERAL.—Section 201 of Public Law 94—
25 305 (15 U.S.C. 634a) is amended—

1 (1) by inserting “(a)” before “There is estab-
2 lished”;

3 (2) by striking the second sentence; and

4 (3) by adding at the end the following:

5 “(b) The management of the Office shall be vested
6 in a Chief Counsel for Advocacy who shall be appointed
7 from civilian life by the President, by and with the advice
8 and consent of the Senate, and who should be appointed
9 without regard to political affiliation and on the basis of
10 fitness to perform the duties of the office.

11 “(c) No individual may be appointed under sub-
12 section (b) if such individual has served as an officer or
13 employee of the Small Business Administration during the
14 5-year period preceding the date of such individual’s ap-
15 pointment.

16 “(d) An individual serving as Chief Counsel on the
17 date of the expiration of any term of the President may
18 not continue to serve as Chief Counsel for more than 1
19 year after such date unless such individual is reappointed
20 after such date by the President, by and with the advice
21 and consent of the Senate. The preceding sentence shall
22 not apply in the case of the expiration of a term of an
23 individual holding the office of President if such individual
24 is elected to the office of President for a term successive
25 to such term.”.

1 (b) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—
2 The individual serving as the Chief Counsel for Advocacy
3 of the Small Business Administration on the date of the
4 enactment of this Act shall continue to serve in that posi-
5 tion after such date in accordance with section 201 of
6 Public Law 94–305 (15 U.S.C. 634a), as amended by this
7 section.

8 **SEC. 4. PRIMARY FUNCTIONS OF OFFICE OF ADVOCACY.**

9 Section 202 of Public Law 94–305 (15 U.S.C. 634b)
10 is amended—

11 (1) in paragraph (6) by striking “to minority
12 enterprises” and inserting “to small business con-
13 cerns owned and controlled by socially and economi-
14 cally disadvantaged individuals, to small business
15 concerns owned and controlled by women, and to
16 small business concerns owned and controlled by vet-
17 erans”;

18 (2) in paragraph (7) by striking “minority en-
19 terprises” and inserting “small business concerns
20 owned and controlled by socially and economically
21 disadvantaged individuals, small business concerns
22 owned and controlled by women, and small business
23 concerns owned and controlled by veterans”;

24 (3) in paragraph (8) by striking “minority and
25 other small business enterprises” and inserting

1 “small business concerns owned and controlled by
2 socially and economically disadvantaged individuals,
3 small business concerns owned and controlled by
4 women, small business concerns owned and con-
5 trolled by veterans, and other small businesses”;

6 (4) in paragraph (9) by striking “complete”
7 and inserting “compete”;

8 (5) by striking paragraph (11);

9 (6) by redesignating paragraph (12) as para-
10 graph (11);

11 (7) in paragraph (11) (as so redesignated)—

12 (A) by striking “serviced-disabled” and in-
13 serting “service-disabled”; and

14 (B) by striking the period at the end and
15 inserting “; and”; and

16 (8) by adding at the end the following:

17 “(12) make such recommendations and submit
18 such reports as the Chief Counsel determines appro-
19 priate to the President, to the Chairmen and Rank-
20 ing Members of the Committee on Small Business of
21 the House of Representatives and the Committee on
22 Small Business and Entrepreneurship of the Senate,
23 and to the Administrator of the Small Business Ad-
24 ministration, with respect to issues and regulations
25 affecting small businesses and the necessity for cor-

1 rective action by any Federal agency or by Con-
2 gress.”.

3 **SEC. 5. ADDITIONAL FUNCTIONS.**

4 (a) IN GENERAL.—Section 203 of Public Law 94–
5 305 (15 U.S.C. 634c) is amended—

6 (1) by inserting “(a)” before “The Office of Ad-
7 vocacy shall also perform”; and

8 (2) in subsection (a) (as so designated)—

9 (A) in paragraph (4) by striking “and” at
10 the end;

11 (B) in paragraph (5) by striking the period
12 at the end and inserting a semicolon; and

13 (C) by adding at the end the following:

14 “(6) maintain economic databases and make
15 the information contained therein available to the
16 Administrator of the Small Business Administration
17 and to Congress;

18 “(7) carry out the responsibilities of the Chief
19 Counsel under chapter 6 of title 5, United States
20 Code; and

21 “(8) maintain a memorandum of understanding
22 with the Small Business and Agriculture Regulatory
23 Enforcement Ombudsman regarding methods and
24 procedures for cooperation between the Ombudsman
25 and the Office of Advocacy and transmit a copy of

1 such memorandum to the Committee on Small Busi-
2 ness of the House of Representatives and the Com-
3 mittee on Small Business and Entrepreneurship of
4 the Senate.”.

5 (b) APPROPRIATION REQUEST.—Section 203 of Pub-
6 lic Law 94–305 (15 U.S.C. 634e) is further amended by
7 adding at the end the following:

8 “(b)(1) For each fiscal year, the Chief Counsel shall
9 transmit the Office of Advocacy’s appropriation estimate
10 and request to the Office of Management and Budget, the
11 Committee on Small Business of the House of Representa-
12 tives, the Committee on Small Business and Entrepre-
13 neurship of the Senate, and the Committees on Appropria-
14 tions of the House of Representatives and the Senate.

15 “(2) Each budget of the United States Government
16 submitted by the President shall include a separate state-
17 ment of the amount of appropriations requested for the
18 Office of Advocacy.”.

19 **SEC. 6. PRINCIPAL DEPUTY CHIEF COUNSEL AND RE-**
20 **REGIONAL ADVOCATES.**

21 Section 204 of Public Law 94–305 (15 U.S.C. 634d)
22 is amended—

23 (1) by inserting “(a)” before “In carrying out”;

24 and

25 (2) by adding at the end the following:

1 “(b)(1) The Chief Counsel may appoint 1 individual
2 to serve as Principal Deputy Chief Counsel.

3 “(2) The Principal Deputy Chief Counsel shall be
4 paid at an annual rate not less than the minimum rate,
5 nor more than the maximum rate, for the Senior Execu-
6 tive Service under chapter 53 of title 5, United States
7 Code.

8 “(3) An individual appointed to a position under this
9 subsection shall not be counted toward the limitation con-
10 tained in subsection (a)(1) regarding the number of indi-
11 viduals who may be compensated at a rate in excess of
12 the lowest rate for GS–15 of the General Schedule.

13 “(c) The Chief Counsel may appoint regional advo-
14 cates within each Standard Federal Region as appro-
15 priate. Such regional advocates shall—

16 “(1) assist in examining the role of small busi-
17 ness in the economy of the United States by identi-
18 fying academic and other research institutions that
19 focus on small business concerns and linking these
20 research resources to research activities conducted
21 by the Office of Advocacy;

22 “(2) assist in representing the views and inter-
23 ests of small business concerns before Federal agen-
24 cies whose policies and activities may affect small
25 business;

1 “(3) assist the functioning of regional small
2 business fairness boards in coordination with the
3 Small Business and Agriculture Regulatory Enforce-
4 ment Ombudsman;

5 “(4) assist in enlisting the cooperation and as-
6 sistance of public and private agencies, businesses,
7 and other organizations in disseminating information
8 about the programs and services provided by the
9 Federal Government that are of benefit to small
10 business concerns and the means by which small
11 business concerns can participate in or make use of
12 such programs and services; and

13 “(5) carry out such duties pursuant to the mis-
14 sion of the Office of Advocacy as the Chief Counsel
15 may assign.”.

16 **SEC. 7. OVERHEAD AND ADMINISTRATIVE SUPPORT.**

17 Section 205 of Public Law 94–305 (15 U.S.C. 634e)
18 is amended by inserting before “Each department” the
19 following:

20 “(a) The Administrator of the Small Business Ad-
21 ministration shall provide the Office of Advocacy with ap-
22 propriate and adequate office space at central and field
23 office locations of the Administration, together with such
24 equipment, office supplies, communications facilities, and

1 personnel and maintenance services as may be necessary
2 for the operation of such offices.

3 “(b)”.

4 **SEC. 8. REPORTS.**

5 Section 206 of Public Law 94–305 (15 U.S.C. 634f)
6 is amended by striking “The Chief Counsel may” and all
7 that follows through “on his activities.” and inserting the
8 following:

9 “(a) Not less than annually, the Chief Counsel shall
10 submit to the President, the Committee on Small Business
11 of the House of Representatives, the Committee on Small
12 Business and Entrepreneurship of the Senate, the Com-
13 mittee on Government Affairs of the Senate, the Com-
14 mittee on Government Reform of the House of Represent-
15 atives, and the Committees on the Judiciary of the Senate
16 and the House of Representatives, and the Administrator
17 of the Small Business Administration a report on agency
18 compliance with chapter 6 of title 5, United States Code.

19 “(b) In addition to the reports required by this title,
20 the Chief Counsel may prepare and publish such other re-
21 ports as the Chief Counsel determines appropriate.

22 “(c)”.

23 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

24 Section 207 of Public Law 94–305 (15 U.S.C. 634g)
25 is amended by striking “not to exceed \$1,000,000” and

1 inserting “\$10,000,000 for fiscal years 2003 and 2004,
2 \$12,000,000 for fiscal year 2005, and \$14,000,000 for fis-
3 cal year 2006”.

4 **SEC. 10. CONFORMING AMENDMENTS.**

5 (a) RURAL TOURISM TRAINING PROGRAM.—Section
6 311 of the Small Business Administration Reauthorization
7 and Amendments Act of 1990 (15 U.S.C. 653 note; 104
8 Stat. 2832) is amended by striking “Chief Counsel for Ad-
9 vocacy” and inserting “Administrator”.

10 (b) SMALL BUSINESS AND AGRICULTURE REGU-
11 LATORY ENFORCEMENT OMBUDSMAN.—Section 30(b)(2)
12 of the Small Business Act (15 U.S.C. 657(b)(2)) is
13 amended—

14 (1) in subparagraph (D), by striking “and” at
15 the end;

16 (2) in subparagraph (E), by striking the period
17 and inserting “; and”; and

18 (3) by adding at the end the following:

19 “(F) maintain a memorandum of under-
20 standing with the Office of Advocacy regarding
21 methods and procedures for cooperation be-
22 tween the Ombudsman and the Office of Advoc-
23 eacy.”.

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