

Union Calendar No. 80

108TH CONGRESS
1ST SESSION

H. R. 1772

[Report No. 108-162]

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

JUNE 18, 2003

Reported with an amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 11, 2003]

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”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

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

3 (1) Excessive regulations continue to burden
4 the Nation’s small businesses.

5 (2) Federal agencies continue to propose regu-
6 lations that impose disproportionate burdens on
7 small businesses.

8 (3) An independent office of small business ad-
9 vocacy will help to ensure that Federal agencies are
10 responsive to small businesses and that those agen-
11 cies comply with their statutory obligations with re-
12 spect to small businesses.

13 (4) The independence of an office that acts as
14 an advocate for small businesses is essential to en-
15 sure that it can serve as an effective advocate with-
16 out being restricted by the views or policies of the
17 Small Business Administration or any other Federal
18 executive branch agency.

19 (5) To be effective an office that acts as an ad-
20 vocate for small businesses needs sufficient resources
21 to conduct creditable economic studies and research
22 which are necessary for the maintenance of small
23 business databases and for the accurate assessment
24 of the impact of regulations on small businesses, the
25 role of small business in the Nation’s economy, and
26 the barriers to the growth of small businesses.

1 (6) The research, information, and expertise
2 provided by an independent office of small business
3 advocacy will be a valuable source of information
4 and advice for Congress and Federal agencies with
5 which the office will work on behalf of small busi-
6 nesses.

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

8 (1) to ensure that there exists an entity that
9 has the statutory independence and adequate finan-
10 cial resources to effectively advocate for and on be-
11 half of small business;

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

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

24 (4) to strengthen the role of the Small Business
25 and Agriculture Regulatory Enforcement Ombuds-

1 man by ensuring continued cooperation between the
2 Ombudsman and the Office of Advocacy of the
3 Small Business Administration.

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

5 (a) IN GENERAL.—Section 201 of Public Law 94—
6 305 (15 U.S.C. 634a) is amended—

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

9 (2) by striking the second sentence; and

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

11 “(b) The management of the Office shall be vested
12 in a Chief Counsel for Advocacy who shall be appointed
13 from civilian life by the President, by and with the advice
14 and consent of the Senate, and who should be appointed
15 without regard to political affiliation and on the basis of
16 fitness to perform the duties of the office.

17 “(c) No individual may be appointed under sub-
18 section (b) if such individual has served as an officer or
19 employee of the Small Business Administration during the
20 5-year period preceding the date of such individual’s ap-
21 pointment.

22 “(d) An individual serving as Chief Counsel on the
23 date of the expiration of any term of the President may
24 not continue to serve as Chief Counsel for more than 1
25 year after such date unless such individual is reappointed

1 after such date by the President, by and with the advice
2 and consent of the Senate. The preceding sentence shall
3 not apply in the case of the expiration of a term of an
4 individual holding the office of President if such individual
5 is elected to the office of President for a term successive
6 to such term.”.

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

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

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

17 (1) in paragraph (6) by striking “to minority
18 enterprises” and inserting “to small business con-
19 cerns owned and controlled by socially and economi-
20 cally disadvantaged individuals, to small business
21 concerns owned and controlled by women, and to
22 small business concerns owned and controlled by vet-
23 erans”;

24 (2) in paragraph (7) by striking “minority en-
25 terprises” and inserting “small business concerns

1 owned and controlled by socially and economically
2 disadvantaged individuals, small business concerns
3 owned and controlled by women, and small business
4 concerns owned and controlled by veterans”;

5 (3) in paragraph (8) by striking “minority and
6 other small business enterprises” and inserting
7 “small business concerns owned and controlled by
8 socially and economically disadvantaged individuals,
9 small business concerns owned and controlled by
10 women, small business concerns owned and con-
11 trolled by veterans, and other small businesses”;

12 (4) in paragraph (9) by striking “complete”
13 and inserting “compete”;

14 (5) by striking paragraph (11);

15 (6) by redesignating paragraph (12) as para-
16 graph (11);

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

18 (A) by striking “serviced-disabled” and in-
19 serting “service-disabled”; and

20 (B) by striking the period at the end and
21 inserting “; and”; and

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

23 “(12) make such recommendations and submit
24 such reports as the Chief Counsel determines appro-
25 priate to the President, to the Chairmen and Rank-

1 ing Members of the Committee on Small Business of
2 the House of Representatives and the Committee on
3 Small Business and Entrepreneurship of the Senate,
4 and to the Administrator of the Small Business Ad-
5 ministration, with respect to issues and regulations
6 affecting small businesses and the necessity for cor-
7 rective action by any Federal agency or by Con-
8 gress.”.

9 **SEC. 5. ADDITIONAL FUNCTIONS.**

10 (a) IN GENERAL.—Section 203 of Public Law 94–
11 305 (15 U.S.C. 634c) is amended—

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

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

15 (A) in paragraph (4) by striking “and” at
16 the end;

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

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

20 “(6) maintain economic databases and make
21 the information contained therein available to the
22 Administrator of the Small Business Administration
23 and to Congress;

1 “(7) carry out the responsibilities of the Chief
2 Counsel under chapter 6 of title 5, United States
3 Code; and

4 “(8) maintain a memorandum of understanding
5 with the Small Business and Agriculture Regulatory
6 Enforcement Ombudsman regarding methods and
7 procedures for cooperation between the Ombudsman
8 and the Office of Advocacy and transmit a copy of
9 such memorandum to the Committee on Small Busi-
10 ness of the House of Representatives and the Com-
11 mittee on Small Business and Entrepreneurship of
12 the Senate.”.

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

16 “(b)(1) For each fiscal year, the Chief Counsel shall
17 transmit the Office of Advocacy’s appropriation estimate
18 and request to the Office of Management and Budget, the
19 Committee on Small Business of the House of Representa-
20 tives, the Committee on Small Business and Entrepre-
21 neurship of the Senate, and the Committees on Appropria-
22 tions of the House of Representatives and the Senate.

23 “(2) Each budget of the United States Government
24 submitted by the President shall include a separate state-

1 ment of the amount of appropriations requested for the
2 Office of Advocacy.”.

3 “(3) *Each such budget shall also include a statement*
4 *indicating whether the proportion of the funds requested for*
5 *the Office of Advocacy when compared to the funds re-*
6 *quested for the Small Business Administration has in-*
7 *creased, decreased, or stayed the same relative to the propor-*
8 *tion of the amount appropriated for the Office of Advocacy*
9 *for the previous fiscal year when compared to the amount*
10 *appropriated for the Small Business Administration for the*
11 *previous fiscal year.*”.

12 **SEC. 6. PRINCIPAL DEPUTY CHIEF COUNSEL AND RE-**
13 **GIONAL ADVOCATES.**

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

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

17 and

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

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

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

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

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

9 “(1) assist in examining the role of small busi-
10 ness in the economy of the United States by identi-
11 fying academic and other research institutions that
12 focus on small business concerns and linking these
13 research resources to research activities conducted
14 by the Office of Advocacy;

15 “(2) assist in representing the views and inter-
16 ests of small business concerns before Federal agen-
17 cies whose policies and activities may affect small
18 business;

19 “(3) assist the functioning of regional small
20 business fairness boards in coordination with the
21 Small Business and Agriculture Regulatory Enforce-
22 ment Ombudsman;

23 “(4) assist in enlisting the cooperation and as-
24 sistance of public and private agencies, businesses,
25 and other organizations in disseminating information

1 about the programs and services provided by the
2 Federal Government that are of benefit to small
3 business concerns and the means by which small
4 business concerns can participate in or make use of
5 such programs and services; and

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

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

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

13 “(a) The Administrator of the Small Business Ad-
14 ministration shall provide the Office of Advocacy with ap-
15 propriate and adequate office space at central and field
16 office locations of the Administration, together with such
17 equipment, office supplies, communications facilities, and
18 personnel and maintenance services as may be necessary
19 for the operation of such offices.

20 “(b)”.

21 **SEC. 8. REPORTS.**

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

1 “(a) Not less than annually, the Chief Counsel shall
2 submit to the President, the Committee on Small Business
3 of the House of Representatives, the Committee on Small
4 Business and Entrepreneurship of the Senate, the Com-
5 mittee on Government Affairs of the Senate, the Com-
6 mittee on Government Reform of the House of Represent-
7 atives, and the Committees on the Judiciary of the Senate
8 and the House of Representatives, and the Administrator
9 of the Small Business Administration a report on agency
10 compliance with chapter 6 of title 5, United States Code.

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

14 “(c)”.

15 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

16 Section 207 of Public Law 94–305 (15 U.S.C. 634g)
17 is amended by striking “not to exceed \$1,000,000” and
18 inserting “\$10,000,000 for fiscal years 2003 and 2004,
19 \$12,000,000 for fiscal year 2005, and \$14,000,000 for fis-
20 cal year 2006”.

21 **SEC. 10. CONFORMING AMENDMENTS.**

22 (a) RURAL TOURISM TRAINING PROGRAM.—Section
23 311 of the Small Business Administration Reauthorization
24 and Amendments Act of 1990 (15 U.S.C. 653 note; 104

1 Stat. 2832) is amended by striking “Chief Counsel for Ad-
2 vocacy” and inserting “Administrator”.

3 (b) SMALL BUSINESS AND AGRICULTURE REGU-
4 LATORY ENFORCEMENT OMBUDSMAN.—Section 30(b)(2)
5 of the Small Business Act (15 U.S.C. 657(b)(2)) is
6 amended—

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

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

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

12 “(F) maintain a memorandum of under-
13 standing with the Office of Advocacy regarding
14 methods and procedures for cooperation be-
15 tween the Ombudsman and the Office of Advo-
16 cacy.”.

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