

108TH CONGRESS
1ST SESSION

S. 818

To ensure the independence and nonpartisan operation of the Office of
Advocacy of the Small Business Administration.

IN THE SENATE OF THE UNITED STATES

APRIL 8, 2003

Ms. SNOWE (for herself, Mr. KERRY, Mr. BOND, Mr. PRYOR, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To ensure the independence and nonpartisan operation of
the Office of Advocacy of the Small Business Administration.

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 “Independent Office of
5 Advocacy Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) excessive regulations continue to burden
9 United States small business concerns;

1 (2) Federal agencies are reluctant to comply
2 with the requirements of chapter 6 of title 5, United
3 States Code, and continue to propose regulations
4 that impose disproportionate burdens on small enti-
5 ties;

6 (3) the Office of Advocacy of the Small Busi-
7 ness Administration (referred to in this Act as the
8 “Office”) is an effective advocate for small entities,
9 including small business concerns, that can help to
10 ensure that agencies are responsive to small business
11 concerns and that agencies comply with their statu-
12 tory obligations under chapter 6 of title 5, United
13 States Code, and under the Small Business Regu-
14 latory Enforcement Fairness Act of 1996 (Public
15 Law 104–121; 106 Stat. 4249 et seq.);

16 (4) the independence of the Office is essential
17 to ensure that it can serve as an effective advocate
18 for small business concerns without being restricted
19 by the views or policies of the Small Business Ad-
20 ministration or any other executive branch agency;

21 (5) the Office needs sufficient resources to con-
22 duct the research required to assess effectively the
23 impact of regulations on small business concerns;
24 and

1 (6) the research, information, and expertise of
2 the Office make it a valuable adviser to Congress as
3 well as the executive branch agencies with which the
4 Office works on behalf of small business concerns.

5 **SEC. 3. PURPOSES.**

6 The purposes of this Act are—

7 (1) to ensure that the Office has the statutory
8 independence and adequate financial resources to
9 advocate for and on behalf of small business con-
10 cerns;

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

20 (3) to provide a separate authorization for ap-
21 propriations for the Office;

22 (4) to authorize the Office to report to the
23 President and to the Congress regarding agency
24 compliance with chapter 6 of title 5, United States
25 Code; and

1 (5) to enhance the role of the Office pursuant
2 to chapter 6 of title 5, United States Code.

3 **SEC. 4. OFFICE OF ADVOCACY.**

4 (a) IN GENERAL.—Title II of Public Law 94–305 (15
5 U.S.C. 634a et seq.) is amended by striking sections 201
6 through 203 and inserting the following:

7 **“SEC. 201. SHORT TITLE.**

8 “This title may be cited as the ‘Office of Advocacy
9 Act’.

10 **“SEC. 202. DEFINITIONS.**

11 “In this title—

12 “(1) the term ‘Administration’ means the Small
13 Business Administration;

14 “(2) the term ‘Administrator’ means the Ad-
15 ministrator of the Small Business Administration;

16 “(3) the term ‘Chief Counsel’ means the Chief
17 Counsel for Advocacy appointed under section 203;

18 “(4) the term ‘Office’ means the Office of Ad-
19 vocacy established under section 203; and

20 “(5) the term ‘small business concern’ has the
21 same meaning as in section 3 of the Small Business
22 Act (15 U.S.C. 632).

23 **“SEC. 203. ESTABLISHMENT OF OFFICE OF ADVOCACY.**

24 “(a) ESTABLISHMENT.—

1 “(1) IN GENERAL.—There is established in the
2 Administration an Office of Advocacy.

3 “(2) APPROPRIATION REQUESTS.—Each budget
4 of the United States Government submitted by the
5 President under section 1105 of title 31, United
6 States Code, shall include a separate statement of
7 the amount of appropriations requested for the Of-
8 fice of Advocacy, which shall be designated in a sep-
9 arate account in the General Fund of the Treasury.

10 “(b) CHIEF COUNSEL FOR ADVOCACY.—

11 “(1) IN GENERAL.—The management of the
12 Office shall be vested in a Chief Counsel for Advo-
13 cacy, who shall be appointed from civilian life by the
14 President, by and with the advice and consent of the
15 Senate, without regard to political affiliation and
16 solely on the ground of fitness to perform the duties
17 of the office.

18 “(2) EMPLOYMENT RESTRICTION.—The indi-
19 vidual appointed to the office of Chief Counsel may
20 not serve as an officer or employee of the Adminis-
21 tration during the 5-year period preceding the date
22 of appointment.

23 “(c) PRIMARY FUNCTIONS.—The Office shall—

24 “(1) examine the role of small business con-
25 cerns in the economy of the United States and the

1 contribution that small business concerns can make
2 in improving competition, encouraging economic and
3 social mobility for all citizens, restraining inflation,
4 spurring production, expanding employment oppor-
5 tunities, increasing productivity, promoting exports,
6 stimulating innovation and entrepreneurship, and
7 providing the means by which new and untested
8 products and services can be brought to the market-
9 place;

10 “(2) assess the effectiveness of Federal subsidy
11 and assistance programs for small business concerns
12 and the desirability of reducing the emphasis on
13 those programs and increasing the emphasis on gen-
14 eral assistance programs designed to benefit all
15 small business concerns;

16 “(3) measure the direct costs and other effects
17 of government regulation of small business concerns,
18 and make legislative, regulatory, and nonlegislative
19 proposals for eliminating the excessive or unneces-
20 sary regulation of small business concerns;

21 “(4) determine the impact of the tax structure
22 on small business concerns and make legislative, reg-
23 ulatory, and other proposals for altering the tax
24 structure to enable all small business concerns to re-

1 alize their potential for contributing to the improve-
 2 ment of the Nation’s economic well-being;

3 “(5) study the ability of financial markets and
 4 institutions to meet the credit needs of small busi-
 5 ness concerns, and determine the impact of govern-
 6 ment demands on credit for small business concerns;

7 “(6) determine financial resource availability
 8 and recommend, with respect to small business con-
 9 cerns, methods for—

10 “(A) delivery of financial assistance, in-
 11 cluding methods for securing equity capital, to
 12 small business concerns—

13 “(i) owned and controlled by socially
 14 and economically disadvantaged individ-
 15 uals;

16 “(ii) owned and controlled by women;

17 “(iii) owned and controlled by vet-
 18 erans; or

19 “(iv) designated as HUBZone small
 20 business concerns by the Administration;

21 “(B) generating markets for goods and
 22 services;

23 “(C) providing effective business education,
 24 more effective management and technical assist-
 25 ance, and training; and

1 “(D) assistance in complying with Federal,
2 State, and local laws;

3 “(7) evaluate the efforts of Federal agencies
4 and the private sector to assist small business con-
5 cerns—

6 “(i) owned and controlled by socially
7 and economically disadvantaged individ-
8 uals;

9 “(ii) owned and controlled by women;

10 “(iii) owned and controlled by vet-
11 erans; or

12 “(iv) designated as HUBZone small
13 business concerns by the Administration;

14 “(8) make such recommendations as may be
15 appropriate to assist the development and strength-
16 ening of small business concerns—

17 “(i) owned and controlled by socially
18 and economically disadvantaged individ-
19 uals;

20 “(ii) owned and controlled by women;

21 “(iii) owned and controlled by vet-
22 erans; or

23 “(iv) designated as HUBZone small
24 business concerns by the Administration;

1 “(9) recommend specific measures for creating
2 an environment in which all small business concerns
3 will have the opportunity—

4 “(A) to compete effectively and expand to
5 their full potential; and

6 “(B) to ascertain any common reasons for
7 the successes and failures of small business con-
8 cerns;

9 “(10) determine the desirability of developing a
10 set of rational, objective criteria to be used to define
11 the term ‘small business concern’, and develop such
12 criteria, if appropriate;

13 “(11) make recommendations and submit re-
14 ports to the Chairmen and Ranking Members of the
15 Committees on Small Business of the Senate and
16 the House of Representatives and the Administrator
17 with respect to issues and regulations affecting small
18 business concerns and the necessity for corrective
19 action by the Administrator, any Federal depart-
20 ment or agency, or the Congress; and

21 “(12) evaluate the efforts of each department
22 and agency of the United States, and of private in-
23 dustry, to assist small business concerns owned and
24 controlled by veterans, as defined in section 3(q) of
25 the Small Business Act (15 U.S.C. 632(q)), and

1 small business concerns owned and controlled by
2 serviced-disabled veterans, as defined in such section
3 3(q), and to provide statistical information on the
4 utilization of such programs by such small business
5 concerns, and to make appropriate recommendations
6 to the Administrator and to the Congress in order
7 to promote the establishment and growth of those
8 small business concerns.

9 “(d) ADDITIONAL FUNCTIONS.—The Office shall, on
10 a continuing basis—

11 “(1) serve as a focal point for the receipt of
12 complaints, criticisms, and suggestions concerning
13 the policies and activities of the Administration and
14 any other department or agency of the Federal Gov-
15 ernment that affects small business concerns;

16 “(2) counsel small business concerns on the
17 means by which to resolve questions and problems
18 concerning the relationship between small business
19 and the Federal Government;

20 “(3) develop proposals for changes in the poli-
21 cies and activities of any agency of the Federal Gov-
22 ernment that will better fulfill the purposes of this
23 title and communicate such proposals to the appro-
24 priate Federal agencies;

1 “(4) represent the views and interests of small
2 business concerns before other Federal agencies
3 whose policies and activities may affect small busi-
4 ness;

5 “(5) enlist the cooperation and assistance of
6 public and private agencies, businesses, and other
7 organizations in disseminating information about the
8 programs and services provided by the Federal Gov-
9 ernment that are of benefit to small business con-
10 cerns, and information on the means by which small
11 business concerns can participate in or make use of
12 such programs and services; and

13 “(6) carry out the responsibilities of the Office
14 under chapter 6 of title 5, United States Code.

15 “(e) OVERHEAD AND ADMINISTRATIVE SUPPORT.—
16 The Administrator shall provide the Office with appro-
17 priate and adequate office space at central and field office
18 locations of the Administration, together with such equip-
19 ment, office supplies, and communications facilities and
20 services as may be necessary for the operation of such of-
21 fices, and shall provide necessary maintenance services for
22 such offices and the equipment and facilities located there-
23 in.”.

1 (b) REPORTS TO CONGRESS.—Title II of Public Law
 2 94–305 (15 U.S.C. 634a et seq.) is amended by striking
 3 section 206 and inserting the following:

4 **“SEC. 206. REPORTS TO CONGRESS.**

5 “(a) ANNUAL REPORTS.—Not less than annually, the
 6 Chief Counsel shall submit to the President and to the
 7 Committees on Small Business of the Senate and the
 8 House of Representatives, the Committee on Govern-
 9 mental Affairs of the Senate, the Committee on Govern-
 10 ment Reform of the House of Representatives, and the
 11 Committees on the Judiciary of the Senate and the House
 12 of Representatives, a report on agency compliance with
 13 chapter 6 of title 5, United States Code.

14 “(b) ADDITIONAL REPORTS.—In addition to the re-
 15 ports required under subsection (a) of this section and sec-
 16 tion 203(c)(11), the Chief Counsel may prepare and pub-
 17 lish such reports as the Chief Counsel determines to be
 18 appropriate.

19 “(c) PROHIBITION.—No report under this title shall
 20 be submitted to the Office of Management and Budget
 21 or to any other department or agency of the Federal Gov-
 22 ernment for any purpose before submission of the report
 23 to the President and to the Congress.”.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—Title II
 2 of Public Law 94–305 (15 U.S.C. 634a et seq.) is amend-
 3 ed by striking section 207 and inserting the following:

4 **“SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

5 “(a) IN GENERAL.—There are authorized to be ap-
 6 propriated to the Office to carry out this title, such sums
 7 as may be necessary for each fiscal year.

8 “(b) AVAILABILITY.—Any amount appropriated
 9 under subsection (a) shall remain available, without fiscal
 10 year limitation, until expended.”.

11 (d) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—
 12 The individual serving as the Chief Counsel for Advocacy
 13 of the Small Business Administration on the date of enact-
 14 ment of this Act shall continue to serve in that position
 15 after such date in accordance with section 203 of the Of-
 16 fice of Advocacy Act, as amended by this section.

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