

Union Calendar No. 255

107TH CONGRESS
2^D SESSION**H. R. 4231****[Report No. 107-433]**

To improve small business advocacy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 16, 2002

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

MAY 2, 2002

Additional sponsor: Mr. BARTLETT of Maryland

MAY 2, 2002

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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 2002”.

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 greater 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, without regard to political af-
15 filiation and solely on the ground of fitness to perform
16 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) Any Chief Counsel appointed after the date of
23 the enactment of this subsection shall be paid at a rate
24 not to exceed the rate of basic pay for level III of the
25 Executive Schedule.

1 “(e) After the expiration of the term of a President,
2 the Chief Counsel may continue to serve at the pleasure
3 of the President for a period of not to exceed one year
4 until such date as a successor to the Chief Counsel is nom-
5 inated.”.

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

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

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

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

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

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

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

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

13 (5) by striking paragraph (11);

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

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

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

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

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

22 “(12) make recommendations and submit re-
23 ports to the President, to the Chairmen and Rank-
24 ing Members of the Committee on Small Business of
25 the House of Representatives and the Committee on

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

7 **SEC. 5. ADDITIONAL FUNCTIONS.**

8 (a) IN GENERAL.—Section 203 of Public Law 94–
9 305 (15 U.S.C. 634c) is amended—

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

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

13 (A) in paragraph (4) by striking “and” at
14 the end;

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

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

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

22 “(7) carry out the responsibilities of the Chief
23 Counsel under chapter 6 of title 5, United States
24 Code; and

1 “(8) enter into a memorandum of under-
2 standing with the Small Business and Agriculture
3 Regulatory Enforcement Ombudsman regarding
4 methods and procedures for cooperation between the
5 Ombudsman and the Office of Advocacy and trans-
6 mit a copy of such memorandum to the Committee
7 on Small Business of the House of Representatives
8 and the Committee on Small Business and Entrepre-
9 neurship of the Senate.”.

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

13 “(b) On or before October 15 of the year preceding
14 the beginning of each fiscal year, the Chief Counsel shall
15 transmit to the President the estimated expenditures and
16 proposed appropriations for the Office of Advocacy, which
17 shall be included by the President in the Budget without
18 revision.”.

19 **SEC. 6. DEPUTY CHIEF COUNSELS AND REGIONAL ADVO-**
20 **CATES.**

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 2 individuals
2 to serve as Deputy Chief Counsels.

3 “(2) Notwithstanding any other provision of this sec-
4 tion, the pay rate for each Deputy Chief Counsel may not
5 exceed the rate of basic pay for level III of the Senior
6 Executive Service.

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

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

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

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

1 “(3) in coordination with the Small Business
2 and Agriculture Regulatory Enforcement Ombuds-
3 man, assist the functioning of regional small busi-
4 ness fairness boards;

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 year 2003, \$12,000,000
2 for fiscal year 2004, and \$14,000,000 for fiscal year
3 2005”.

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

5 (a) EXECUTIVE PAY SCHEDULE.—Title 5, United
6 States Code, is amended—

7 (1) in section 5314 by adding at the end the
8 following:

9 “Chief Counsel for Advocacy, Small Business
10 Administration.”; and

11 (2) in section 5315 by striking the following:

12 “Chief Counsel for Advocacy, Small Business
13 Administration.”.

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

19 (c) SMALL BUSINESS AND AGRICULTURE REGU-
20 LATORY ENFORCEMENT OMBUDSMAN.—Section 30(b)(2)
21 of the Small Business Act (15 U.S.C. 657(b)(2)) is
22 amended—

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

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

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

4 “(F) enter into a memorandum of under-
5 standing with the Office of Advocacy regarding
6 methods and procedures for cooperation be-
7 tween the Ombudsman and the Office of Advoca-
8 eacy.”.

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