

State Model Legislation Victories in Six States

The spring state legislative session came to a close with several regulatory flexibility legislative victories across the country. New laws in Arkansas, Hawaii, Maine, Tennessee, Texas, and Washington improve rulemaking procedures in those states, by requiring agencies to consider the effect of their proposed rules on small entities. Chief Counsel Tom Sullivan said, "Passage of these bills was due to the dedicated efforts of state policymakers and the broad support of small business groups, chambers of commerce and trade associations in each of the states."

The first bill signed this year was Arkansas Senate Bill (SB) 55, which Governor Mike Beebe signed into law on March 2. The law builds on an executive order of former Governor Mike Huckabee. This new law requires agencies to prepare a statement that includes the number and types of small businesses that

will bear the burden of the proposed rule and the dollar amount that the rule will cost. It also requires agencies to consider less costly alternatives to accomplish their objectives and an explanation of why the alternatives for small entities are not being proposed.

On April 30, Washington State Governor Christine Gregoire signed House Bill (HB) 1525 into law to improve upon the existing state Regulatory Fairness Act. The new law requires agencies to prepare a statement explaining why the costs that the rule imposes on small businesses cannot be reduced and to include the statement with the filing of the proposed rule. The bill also makes small business impact statements subject to review by the Joint Administrative Rules Review Committee and allows persons affected by proposed rules to petition the committee for review.

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Maine Governor John Baldacci signed LD 905 into law on June 21. From left are SBA Maine District Director Mary McAleney; NFIB/Maine Director David Clough; Representative Christopher Barstow; Region I Advocate Steve Adams; Governor Baldacci; Representative Chris Rector; Senator Lynn Bromley; Representative John Robinson; Chief Counsel for Advocacy Thomas M. Sullivan.

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Legislative News

New Law Requires Agencies to Produce Small Business Compliance Guides

By David Voight, Public Liaison Specialist

In 1996, the Senate passed without opposition the Small Business Regulatory Enforcement Fairness Act (SBREFA). SBREFA was designed to make Advocacy's main tool, the Regulatory Flexibility Act, more effective in fighting onerous and unnecessary regulations that burden small business. One important provision of SBREFA was a requirement directing federal agencies to produce compliance manuals to help small businesses understand exactly what was expected of them and what they had to do to comply with regulatory requirements. Like many good ideas, this one was simply ignored or done poorly over the years, so that small businesses didn't get all the help they may have needed.

Fortunately, a small business champion in the U.S. Senate, Senator Olympia Snowe, saw what was

going on and vowed to close the loopholes so that agencies would have to focus on the compliance guide requirements of SBREFA. She introduced the Small Business Compliance Assistance Enhancement Act of 2007 to require agencies to produce high-quality, understandable compliance guides for small business. Specifically, the Act proposed to:

- Clarify the requirements that agencies would have to meet;
- Ensure that the guides are useful to small businesses and other small entities;
- Clarify that guides should be published simultaneously with the final agency rule or as soon as possible after publication;
- Require agencies to report annually to Congress on how they are meeting the requirements of this Act.



On May 9, during the National Small Business Association's 70th anniversary dinner, NSBA President Todd McCracken recognized David Voight, Advocacy's public liaison specialist, for his many contributions to small business on the occasion of his retirement from public service.

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President Bush signed the bill on May 24. This bill has long been an Office of Advocacy legislative priority. When the bill was enacted, Chief Counsel for Advocacy Thomas M. Sullivan said, "By requiring federal agencies to produce understandable and usable compliance guides, Congress has taken a step toward helping to reduce the burden of federal regulations."

Senator Snowe has done small business a major favor.

Message from the Chief Counsel

The Office of Advocacy Announces the R3 Project

by Thomas M. Sullivan, Chief Counsel for Advocacy

In 1979, the cost of federal regulations was estimated at \$100 billion, a fivefold increase over the 1970 total. By 2004, that cost had ballooned to an estimated \$1.1 trillion. This is more than 9 percent of U.S. gross domestic product and adds up to \$10,172 per household. It is more than the average annual household expenditure on health-care in 2004 (which was just under \$9,000).

Small businesses bear more than their share of this burden. Small firms pay 45 percent more per employee than large businesses do to comply with federal regulations. The Office of Advocacy is the small business representative in agency regulatory implementation decisions, and the office continues to seek new ways to even out the small business burden. In recent years, the office has made significant progress in working with agencies to improve draft rule proposals as a result of President Bush's Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking."

How else can Advocacy be effective? By focusing on rules that are on the books and are ripe for reform.

When the Regulatory Flexibility Act (RFA) was passed in 1980, it required agencies to go back and look at existing regulations to see if they were having an undue impact on small business because they were old, outmoded, or obsolete. This look-back provision is found in Section 610 of the RFA.

In the months ahead, the Office of Advocacy will launch the new

Regulatory Review and Reform Initiative, or R3. Advocacy will work with small entities to identify rules that should be updated to eliminate unnecessary burdens on small business or to make compliance easier.

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This summer, Advocacy will issue a how-to guide on complying with Section 610 of the RFA. In the fall, a call for nominations of federal rules in need of reform will go to stakeholders. Advocacy will consider all responses, consult with small businesses and their representatives, and work with agencies to review rules.

This winter, Advocacy will launch a webpage giving twice-yearly status reports on agencies' review and reform efforts. A summation of reform progress will appear as part of Advocacy's annual report on RFA compliance, which is due in winter 2008. Another key part of the R3 project will be to help agencies improve their compliance with Section 610. Advocacy is committed to a rigorous training schedule for agencies and departments.

As the entire Office of Advocacy gears up for this new push, we will be in touch with our many small business partners. In addition, the Office of Management and Budget has committed to work cooperatively with Advocacy to make R3 a success. Look for much more news on this exciting direction in the months to come.



Regional Roundup

New State Laws, from page 1

Governor Rick Perry signed HB 3430 on June 15. The new Texas law encourages agencies to develop an analytical process to determine how public policy goals can best be achieved, without erecting unnecessary barriers to competition, stifling innovation, or imposing undue burdens on small businesses. By requiring agencies to look at the costs of proposed rules to small business and to consider flexible approaches to meeting regulatory objectives, this new law seeks to level the playing field for small entities in the Lone Star State.

“By signing this bill, Governor Perry has reaffirmed not only the importance of transparency of regulatory proposals, but also the significant contributions of small businesses to the state’s economy,” said Thomas M. Sullivan, chief counsel for advocacy. “Texas is fortunate to have an action-oriented

legislature with strong support for small business.”

Policymakers in Tennessee also recognized that fundamental changes were needed in the regulatory culture of their state agencies to make them more responsive to small business. On June 21, Governor Phil Bredesen signed HB 1276/SB 55 which requires agencies to look at whether regulatory and reporting requirements will impose unnecessary and disproportionately burdensome demands on small businesses and whether there are less costly methods of achieving a rule’s stated purpose.

Also on June 21, Maine Governor John Baldacci signed Legislative Document (LD) 905. The act amends the Maine Administrative Procedure Act to strengthen safeguards for small businesses.

The new law directs regulating agencies to consider the economic impact of proposed regulations on Maine small businesses and to describe less burdensome alter-

natives that still accomplish the agency goal. The law also requires agencies to make this information available for public review before the public hearing on the regulation. If the economic analysis is not conducted, the rule may not go into effect.

Since 2002 when Advocacy’s model legislation was introduced, 37 state legislatures have considered regulatory flexibility legislation, and 22 states have implemented legislation or executive orders.

“The State of Maine has taken an important step toward a more transparent agency regulatory culture by passing this law,” said Thomas M. Sullivan, chief counsel for advocacy, who attended the bill signing ceremony in Augusta. “In this measure, Maine’s legislature has exemplified strong support for the small business community as well as for more rational and transparent regulation.” The bill was sponsored by Representative Christopher Rector of Thomaston. “With the signing of this bill, Maine small businesses are assured a stronger voice in the development of state regulations that affect them,” Rector said. “It is an important step in strengthening Maine’s entrepreneurial environment.”

On June 28, Hawaii Governor Linda Lingle signed into law SB 188 to enhance the state’s existing Small Business Regulatory Flexibility Act. The new law requires agencies to submit the small business impact statement to the Small Business Regulatory Review Board as early as possible in the rule-making process. Agencies are also

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Region II Advocate Christine Serrano Glassner discusses regulatory issues with Angel Santiago, chief operating officer of Encantos de Puerto Rico, Inc. Santiago, the 2007 Entrepreneur of the Year for Region II, operates a farm and a coffee manufacturing plant. Two of his 30 full-time employees are solely dedicated to federal, state, and municipal regulatory compliance.

Staff Changes at Advocacy

In June, the Office of Advocacy regained a former staff member, labor economist Jules Lichtenstein. In July, longtime small business advocate David Voight retired from public service, and a new small business advocate, LaVita LeGrys, joined Advocacy's staff.

Senior Economist **Jules Lichtenstein** has over 25 years of experience in research, policy and economic analysis. He specializes in issues regarding aging and older populations, employee benefits, small business, and economic and community development. Lichtenstein is the author of over 75 publications and reports.

Incoming Public Liaison Specialist **LaVita Strickland LeGrys** brings many years' experience working for Congress and trade



Public Liaison Specialist LaVita Strickland LeGrys.

associations. Most recently, she worked for the University of California's legislative affairs office.

LeGrys is a graduate of Tulane Law School and the American University School of Government Affairs.

After more than three decades fighting for small business in Washington, D.C., Advocacy's longtime Public Liaison Specialist **David Voight** retired in July. Voight served as deputy to Milt Stewart, the first Senate-confirmed chief counsel for advocacy, and helped organize the three White House Conferences on Small Business. He also worked as an advisor to members of Congress both in the House of Representatives and the Senate, and represented small business for the National Federation of Independent Business and the U.S. Chamber of Commerce's Small Business Council.



Senior Economist Jules Lichtenstein.

New State Laws, from page 4

required to submit a list of existing rules that affect small business to the board every other year, as well as a report describing the public purpose of these rules and justifications for their continued implementation.

Six other states also introduced regulatory flexibility legislation this

year: Alabama (HB 84), Connecticut (SB 1179), Illinois (HB 302), Massachusetts (HB 189/SB133), Mississippi (HB 1229), Montana (SB 148), and one bill carried over from the 2006 legislative session (New Jersey (A 2327/SB 1335)). Since 2002 when Advocacy's model legislation was introduced, 37 state legislatures have consid-

ered regulatory flexibility legislation, and 22 states have implemented legislation or executive orders.

To learn more about Advocacy's state regulatory flexibility model legislation initiative, visit www.sba.gov/advo/laws/law_modeleg.html.

Economic News

Chief Economist Addresses Italian Small Business Conference

On June 14, Chief Economist Chad Moutray addressed the annual meeting of Confartigianato Imprese, Italy's largest organization of small enterprises, in Rome.

Moutray discussed the importance of the small business sector in the United States and the central role of entrepreneurship in job creation and U.S. economic growth. While this message is familiar to Americans, many Italians are less aware of the central role of U.S. entrepreneurs. Their images of American businesses are shaped by large multinational firms—Microsoft, Wal-Mart, or McDonald's. The notion that American economic growth and competitiveness is enhanced by innovation and new firm formation resonated with the audience. They also appreciated

the role of the Office of Advocacy in reducing regulatory burdens for small businesses.

Confartigianato Imprese is a trade association that represents 521,000 businesses. It was originally composed of artisans and craftsmen, but in recent years it has expanded into industrial sectors. In addition to the national group, smaller regional affiliates are spread throughout Italy, and similar organizations exist throughout Europe and in North Africa.

Moutray was one of three speakers at the event. The others were the organization's president, Giorgio Guerrini, and Italy's Minister of Economic Development, Pierluigi Bersani. Guerrini's concerns—with high taxes, burdensome regulations, intrusive government bureaucracy,

and the challenges of globalization—closely mirrored those of American small business advocates. His remarks contrasted Italy's slow economic growth relative to its European peers. He pointed to countries such as Ireland and Spain, that have embraced the entrepreneur and worked to enhance their business climate.

Bersani, the minister of economic development, spoke about the need for Italy to restore its fiscal situation (particularly its large government debt) and of his desire to improve the business climate and competitiveness.

Moutray's travel to the event was funded by the Confartigianato Imprese.



On June 14, Chief Economist Chad Moutray addressed Italy's largest organization of small enterprises, the Confartigianato Imprese, which represents 521,000 businesses.

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Research Notes

“Best Paper” Awarded By Advocacy At Babson College Conference

Two professors and a doctoral student received the Office of Advocacy’s “Best Paper” award at the Babson College Entrepreneurship Research Conference held in Madrid, Spain, in June. The award honored Karl Wennberg, a doctoral student at the Stockholm School of Economics, Timothy Folta of Purdue University, and Frederic Delmar of Ecole de Management de Lyon, for their paper, *A Real Options Model of Stepwise Entry into Self-Employment*.

The paper examines how potential entrepreneurs approach self-employment. The authors analyzed the self-employment decisions of persons employed in Swedish knowledge-intensive industries in 1997. They found that potential entrepreneurs use a part-time strategy to test the entrepreneurial waters, by easing their way into self-employment. Representing Advocacy at the Madrid conference was Visiting Research Economist Larry Plummer, who attended the event at his own expense.



Doctoral candidate Karl Wennberg (left) was one of the recipients of Advocacy’s “Best Paper” award in June. Presenting the award are Babson College Professor Andrew Zacharakis (center), who directs the Babson College Entrepreneurship Research Center, and Advocacy’s Visiting Research Economist, Larry Plummer. The paper is available on Advocacy’s website, www.sba.gov/advo/research/rs304tot.pdf.

Relationship and Standardized Lending Practices Work Together To Provide Small Business Access To Credit

Relationship lending—with lending decisions based on bank-firm relations—dominates lending between small businesses and their primary bank provider, according to a report issued by the Office of Advocacy in June. Competing sources of bank financing, which are primarily larger institutions, tend to use standardized or transactional techniques, such as credit scoring, when making lending decisions.

The study, *A Two-Step Analysis of Standardized Versus Relationship*

Bank Lending to Small Firms, was written by Polly Hardee with funding from the Office of Advocacy. The author notes that “No conclusive evidence exists indicating that one lending technique dominates and improves credit availability.” Moreover, the author concludes that the financial market, “if allowed to function freely, efficiently allocates adequate financing to small firms regardless of the supplier’s lending methodology.”

Region II Advocate Christine Serrano Glassner issued the report during a presentation to the ninth annual Bronx Bankers’ Breakfast. Borough President Adolfo Carrion, Jr., and the Business Initiative Corporation of New York, hosted the event. To read the entire report, visit Advocacy’s website, www.sba.gov/advo/research/rs305tot.pdf.

Small Business: Your issues are our issues at the SBA Office of Advocacy.

Access Advocacy Listservs for the latest regulatory alerts and small business statistics. Email notices will provide a hotlink to the new material, so your in-box won't fill up with large documents. At <http://web.sba.gov/list>, check:

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