

## State Regulatory Flexibility

- The role of the U.S. Small Business Administration's Office of Advocacy is to reduce the excessive regulatory burden placed on small business. While focusing on federal regulations, Advocacy welcomes the opportunity to work with state leaders on their regulatory issues.
- More than 93 percent of businesses in every state are small businesses and according to a 2005 study funded by the Office of Advocacy, *The Impact of Regulatory Costs on Small Firms*, by Dr. Mark Crain, firms with fewer than 20 employees annually spend \$7,647 per employee to comply with federal regulations, compared with the \$5,282 spent by firms with 500 or more employees. That is a 45 percent greater burden on small entities than their larger business counterparts.
- Any small business owner on Main Street will explain that the regulatory burden does not just come from Washington. The regulatory burden also comes from state capitals where state agencies are located. Sensitizing government regulators to how their mandates affect the employer community does not stop at the Beltway. Regulatory flexibility is a practice that must be successful at the state and federal level in order to keep America competitive.
- The Office of Advocacy has drafted model legislation for consideration by states that mirrors the federal Regulatory Flexibility Act. Its intent is to foster a climate for entrepreneurial success in the states, so that small businesses will continue to create jobs, produce innovative new products and services, bring more Americans into the economic mainstream, and broaden the tax base. This can be done without sacrificing agency regulatory goals.
- Successful state-level regulatory flexibility laws, as in the model legislation, address the following areas: 1) A small business definition that is consistent with state practices and permitting authorities; 2) A requirement that state agencies prepare a small business economic impact analysis before they regulate; 3) A requirement that state agencies consider less burdensome alternatives for small business that still meet the agency objective; 4) Judicial review of agency compliance with the rulemaking procedures; and 5) A provision that forces state governments to periodically review existing regulations.
- Since Advocacy's model legislation was introduced in 2002, 44 states have implemented regulatory flexibility via Executive Order or legislation.
- In 2008, 10 states introduced regulatory flexibility legislation: *Arizona* (HB 2235), *Florida* (HB 7109), *Hawaii* (HB 2781, HB 2686, HB 2736), *Illinois* (HB 302),\* *Iowa* (SF 2227), *Kansas* (HB 2827), *Louisiana* (HB 368), *Massachusetts* (SB 2413),\* *New Jersey* (A832), and *Utah* (HB 53).<sup>1</sup> Bills have been signed into law in Florida, Hawaii, Kansas, Louisiana, and Utah.
- Small businesses are vital to the health of states' economies. They are 99.7 percent of all employer businesses, employ half of the workforce, produce 52 percent of the private sector output, and provide significant ownership opportunities for women, minorities, and immigrants. A healthy small business sector also means a growing tax base.
- For text of model legislation and a chart of current state laws visit [http://www.sba.gov/advo/laws/law\\_modeleg.html](http://www.sba.gov/advo/laws/law_modeleg.html).

<sup>1</sup> \*These bills were introduced in 2007 and continued to be considered through the 2008 session.