

**Testimony of Alan Steinberg
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Before the
New Jersey Senate Committee on
Economic Growth, Agriculture and Tourism on
S. 2410, an Act to Expand the Scope of the
New Jersey Regulatory Flexibility Act
May 15, 2003**

Chairman Bark and members of the committee, I am Alan Steinberg, Region II Small Business Advocate for the Office of Advocacy of the U.S. Small Business Administration (SBA). The Office of Advocacy was established by separate federal legislation in 1976 and placed in the SBA to be an independent voice for small business within the Federal government both inside and outside of Washington. From the very beginning, the Office of Advocacy has recognized that while the principle focus of the Office would be on the federal level, small businesses can be burdened by excess and unreasonable regulation at the state and local level as well.

Supporting this legislation which you and Senator Kyrillos have introduced is very compatible with our mission of reducing the small business regulatory burden. An Advocacy research study, *The Impact of Regulatory Costs on Small Business*, established that small businesses with less than 20 employees spend nearly \$7,000 each year, per employee just to comply with federal regulations and mandates. That's 60 percent more than large firms.

The key to Advocacy's effectiveness in fighting federal regulations has been the Regulatory Flexibility Act (RFA) passed by Congress in 1980 and strengthened in 1996 by legislation creating, among other things, the right of judicial review. The principle underlying RFA is not that there should be no regulations but rather that regulatory agencies should be acutely aware that their mandates hurt small entities. Under this law

federal agencies are required to consider the impact of proposed regulations on small entities and to discuss alternative ways to achieve their regulatory objective.

Many states have a similar law and I am pleased that New Jersey is one of them. In fact, New Jersey has many small business friendly programs, including the Small Business Environmental Ombudsman in the New Jersey Commerce and Economic Growth Commission. Our task here is not to develop a whole new program to but to build and improve on an already existing structure.

The reason that this task is so important is clear. We have to climb out of the economic hole that is causing such devastation in so many states. We know that coming out of a recession, small businesses create virtually all of the net new jobs. We need to remove any possible barrier to job creation.

Under the federal RFA, Advocacy has shown time again that regulations can be reduced and the economy improved without sacrificing such important goals as environmental quality, travel safety, workplace safety, and family financial security. In fact, last year, the Office of Advocacy worked with other federal agencies to save small businesses over \$21 billion in foregone regulatory costs that can now be used to hire, buy equipment, and expand health care for Americans all across our country.

Other states that have effective Regulatory Flexibility laws also show significant small business savings. In our neighboring state of New York, for example, the Governor's Office of Regulatory Reform, although not specifically tailored for small business, realizes significant savings for them. In a little over 4 years, New York has realized reform or elimination of over 1,800 regulations with cost-savings of over \$2.3 billion.

The Office of Advocacy just developed its model Regulatory Flexibility legislation for consideration by states last December. Since that time numerous states have taken strong steps to implement an initial law or to improve the laws they already

had. Oklahoma and Hawaii have acted on this legislation previously are at an implementation stage. Puerto Rico, which is also in Region II, has had remarkable success with a small business ombudsman office that has regulatory flexibility authority. The Governor of North Dakota has just signed regulatory flexibility into law and a similar law is now pending signature in Colorado. Missouri, Oregon, West Virginia, Rhode Island are states that have also taken this up during this legislative year.

But as the legislation that we are looking at today suggests, it is not just a matter of having the law on the books. Successful state level regulatory flexibility laws should address: (1) a small business definition that includes most small businesses; (2) a requirement that state agencies perform an economic impact analysis before they regulate; (3) a requirement that state agencies consider less burdensome alternatives that still meet regulatory goals; (4) judicial review so that the law has teeth; and (5) a provision that forces state government to periodically review all its regulations. Likewise, there should be few, if any, exemptions from the law.

The bill you are proposing would broaden the definition of small business from one that employs fewer than 100 full-time employees to one that employs fewer than 500 or has gross annual sales of less than \$6 million. It would also require an agency to use consolidation or simplification of a compliance or reporting requirement as an approach to minimize the rule's impact on small business. The rule that impacts small business must be reviewed and reanalyzed generally every five years. Judicial review of compliance with the flexibility requirements may be instituted by any small business adversely affected by final agency action within one year of that action. Finally, the New Jersey Commerce Commission is empowered to focus and lead the effort for flexibility act relief for small businesses.

Even with the passage of this legislation—which Advocacy supports and commends you for introducing—the process does not end.. There remains a need for committed executive leadership, for trained and educated state agencies so that will know what their responsibilities are and how to accomplish them, and for continued

involvement of the small business community to provide feedback on what still needs to be done.

There is no question that small business is the backbone of the economy here in New Jersey just as it is throughout the country. Sometimes, however, because small businesses are small, it is easy to overlook their aggregate importance to the economy—and it is very easy to overlook the negative impact of regulatory activities on them. This proposed legislation will go along way to free small business to do what they do best: create jobs and vitalize our economy.

Again, you are to be congratulated for your efforts and commitment and we pledge to work with you in seeing a stronger climate in which small business can prosper.