

**Testimony of  
The Honorable Thomas M. Sullivan  
Chief Counsel for Advocacy  
U.S. Small Business Administration  
before the  
Texas House Committee  
On Government Reform on  
HB 2390 an Act Relating to State Agency Rules  
Affecting Small Business  
April 22, 2003**

Chairman Swinford, Vice Chairman Gallego, and members of the Government Reform Committee, my name is Thomas M. Sullivan and I am the Chief Counsel for Advocacy, a Presidential appointment with Senate confirmation at the U.S. Small Business Administration. It is an honor for me to be here before you today to testify on House Bill 2390. Many times I learn more from leaving Washington, DC and meeting small business leaders – like many of you --- than I do from weeks of Washington meetings. So again, thank you for the honor of testifying before you, and of having the chance to learn from you today.

My job is to be the independent voice for small business within the federal government, both inside and outside of Washington. My only interest is that of small business owners and their employees. Frequently that means helping them deal with the enormous amount of regulations that affect them. That is why I am pleased to be here today before the Committee to support proposed legislation to strengthen the regulatory flexibility statutes here in Texas.

I should first compliment you. Texas already has programs that are designed to help small business prosper. It is my intention, in coming here today, to help improve an already working system. There are lessons from Texas that other states should note. For example, you have a Texas Office of Small Business Assistance which is charged with being the [main contact point](#) for small businesses. It markets all agency programs available to small businesses and works with other organizations to meet the needs of small business in Texas. Likewise, there is an active Texas Small Business Advisory Committee that works with the Texas Economic Development Board to focus on the particular needs of small business including identifying research that can be undertaken to help small business. In addition, in 1999, the Office of Advocacy gave an award to the Texas Department of Economic Development for establishing the *Electronic State Business Daily* which facilitates small business access to state government procurement activities.

The Office of Advocacy was established by federal statute in 1976 (15 USCS 634). While much of the focal point of that legislation relates to the authority of the Office of Advocacy to assist small businesses by improving Federal regulatory practices, the legislated primary functions of the Office are broad.

The Office of Advocacy focuses directly on the rules and regulations that hinder small business. We are the part of federal government that stands between unreasonable tax policy or unfair regulation, and the small business owners on Main Street.

It is our job to make sure that their opinions are heard. We pursue a small business agenda in two ways. First, we work directly with federal agencies to help them find less burdensome alternatives to their proposed regulations and we fight to implement those alternatives.

Second, we produce research that shows the value of small business. We know that sound public policy rests on sound research. So we make sure that policy makers clearly understand the value of small business to the economy and to your communities.

The central mission of the Office of Advocacy remains reducing the excessive regulatory burden that falls on small business. 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 with the addition of the Red Tape Reduction Act. The premise behind RFA is not that there should be no regulations at all 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 without imposing unfair burdens.

Many states have the same type of law. My office has examined those state laws, drafted the best practices, and I am meeting with leaders throughout the country to urge consideration of ways to adopt small business friendly approaches to state government. The reason is simple. We have got to climb out of the economic hole we are in. We know that coming out of a recession, small business creates virtually all of the net new jobs. So, we have to do everything we can to remove barriers to job creation.

Under RFA, Advocacy has shown time and 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. By working with federal agencies to implement the RFA, the Office of Advocacy in 2002 saved small businesses over \$21 billion in foregone regulatory costs that can now be used to create jobs, buy equipment and expand access to health care for millions of Americans.

In New York, under the Governor's Office of Regulatory Reform, they are realizing savings by implementing key components of regulatory flexibility, though not specifically tailored for small business. 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. One example that caught my eye was a Department of Motor Vehicles rule. The rule required all trailers, pulled by a car or truck, to meet the same standards -- from tractor-trailers to a small cement mixer or fertilizer spreader. The Department admitted that "one-size-does-not-fit-all" and changed the regulations so that someone hauling a fertilizer spreader from one part of their farm, across the road, to another part of their

farm, does not have to meet the same safety and permit requirements as a truck driver hauling a rig down the highway. New York estimated a savings of \$150 million.

Since the start of the year, numerous states are considering various aspects of regulatory flexibility legislation and two states are starting to implement laws that were enacted last year.

We believe that there are five critical elements that are contained in the model bill. 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. Even the best regulatory flexibility initiative has little value if the majority of state agencies are exempted from it.

We are pleased that many states around the country are recognizing the need for state regulatory flexibility laws if they do not have them, or are strengthening them if they do. Oklahoma and Hawaii have just recently enacted this kind of legislation and the Commonwealth of Puerto Rico has had remarkable success with a small business ombudsman office that has regulatory flexibility authority. The Governor of the State of North Dakota signed regulatory flexibility into law last week. Similar legislation is

moving through the Colorado legislature and an Oregon legislative committee just sent the bill to the full House for consideration there. I joined lawmakers in Jefferson City, Missouri to talk about these important issues and their bill has passed both Houses of their legislature and is now being worked out in conference. Other states that have regulatory flexibility legislation under consideration are West Virginia, New Jersey, and of course Rhode Island. These examples show that successful legislation is the important first step in bringing needed regulatory relief to small entities.

The process doesn't end there, however. There remains a need for committed executive leadership, for trained and educated state agencies so that they 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 Texas just as it is throughout the country. Sometimes, 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. The intent of this legislation is to compel regulatory agencies to consider small businesses in the process by which regulations are developed and particularly consider the disproportionate impact that those regulations might have.

This legislation is needed. The Office of Advocacy commends you for bringing this forward and we urge its support

