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The Small Business Advocate

Advocacy: the voice of small business in government

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New Congress Brings New Leadership to Small Business Committees

By Erik Gulbrandsen, Communications and Congressional Liaison

The 114th Congress brought to Washington 71 new lawmakers, a Republican-led Senate and new leadership for both the House and the Senate Small Business Committees. The new chairs and ranking members of the Senate and House committees have each displayed their respect for small business, and below is a glance at what issues small business stakeholders can expect them to be interested in.

Hailing from Louisiana, Republican Senator David Vitter is currently in his 15th year in Congress and 10th year in the Senate as he takes his place as the new chairman of the Senate Small Business and Entrepreneurship Committee. Vitter has proven himself to be a strong advocate on behalf of small business. His efforts have focused on working to ensure that small businesses have access to capital and job training programs. Furthermore, he has consistently shown how federal rules need to be simplified and tailored neatly to ensure that small businesses can comply with regulations while facing the least economic burden possible.

Beginning his career in 1987 as a Representative for Maryland's 3rd District, Senator Ben Cardin, a Democrat, was elected to the Senate in 2007 and is currently serving his second term. The junior senator from Maryland will be the ranking member on the committee. Cardin has worked hard to enable small businesses to get the help they need from the federal government. He has made strengthening the minority small business community a top priority and will look to develop policies that encourage small business success.

Representing the 1st District of Ohio, House Small Business Committee Chairman Congressman Steve Chabot, a Republican, has served in the House for a total of 18 years and his focus has been on small business growth and job creation. Stakeholders can expect him to work to lessen the burdens of regulations, taxes and barriers to accessing capital as well.

Democratic Congresswoman Nydia Velazquez, representing New York's 7th District, is no stranger to the House Small Business Committee, having served on the committee since 1998. She has consistently praised the small business community and their contribution to the United States economy. She has also worked to expand opportunities for women and minority business owners. Small business owners can expect her to advocate for policies that lower regulatory

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SBREFA Panel on Infectious Diseases Submits Final Report to OSHA

By Bruce Lundegren, Assistant Chief Counsel

On October 22, 2014, the Occupational Safety and Health Administration (OSHA) formally convened a Small Business Advocacy Review (SBAR) panel (also known as a "SBREFA" panel) on a possible OSHA rule on occupational exposure to infectious diseases in healthcare and other related work settings. OSHA's contemplated rule could impact employers, including numerous small employers, whose employees provide direct patient care or potentially come into contact with infectious materials. The panel's report, dated December 22, 2014, was transmitted to Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels.

Infectious diseases, such as MRSA, influenza, SARS, or even Ebola, can be transmitted in a variety of ways in healthcare settings, such as employee to employee, patient to employee, patient to patient, or by contact with infected surfaces or materials. OSHA's contemplated rule would address worker exposure to infectious diseases by non-bloodborne routes—that is by contact, droplet, or airborne transmission—as OSHA already has a rule on bloodborne pathogens. Also, OSHA is considering what it calls a "vertical" standard (i.e., a rule that only applies to certain categories of employees) rather than a "horizontal" standard (which would cover any place of employment where the hazard is present). As such, the rule would only cover employees who perform direct patient care (e.g., hospitals, clinics, doctors and dentist's offices, etc.) or potentially come into contact with infectious materials (e.g., janitorial services that clean patient care areas, laboratories, medical waste transporters, funeral homes, etc.).

OSHA was required to convene the SBAR panel by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996. SBREFA requires OSHA to convene a small business panel for any rule that is expected to "have a significant economic impact on a substantial number of small entities" before it can publish a proposed rule. The panel itself consisted of OSHA, the SBA Office of Advocacy, and the Office of Information and Regulatory Affairs within the Office of Management and Budget. The panel was assisted in its work by over 50 small entity representatives (SERs) from the range of potentially regulated entities. In this case, representatives included small private sector, nonprofit, and governmental employers whose employees provide direct patient care or perform other covered tasks where they are potentially exposed to infectious agents.

OSHA's rule, as contemplated, would mandate what OSHA calls its preferred "regulatory framework," which would essentially require regulated employers follow the Center for Disease Control and Prevention guidelines on infectious disease control (CDC guidelines) or similar best practices and protocols. This would likely require employers to prepare a written worker infection control plan, develop standard operating procedures for each occupation and task, provide medical screening and surveillance, provide training and vaccinations, and maintain records.

The small entity representatives were asked to review OSHA's background documents and other materials, including OSHA's preferred regulatory framework and to provide advice and recommendations to the panel during one of several conference calls and in written comments. Generally, most of the SERs were critical of OSHA's plan because they said they already do what OSHA would mandate and because they have not seen their employees contract infectious diseases at work. Many SERs also noted that they are already subject to rigorous licensing, certification, and accreditation requirements. The SERs were also skeptical about OSHA's plan to require paid medical removal for any employee who contracts an infectious disease at work. In its report, the panel recommends that OSHA not proceed with a proposed rule unless it has risk data to justify a new regulation and that OSHA consider other regulatory and non-regulatory alternatives. The panel also recommends that OSHA assess each particular work setting to determine the level of risk associated with it.

The panel report and all of the background materials provided to the SERs are available in the OSHA docket at **www.regulations.gov**, the federal government's web portal. For further information, please contact Bruce Lundegren at (202) 205-6144 or **Bruce.Lundegren@sba.gov**.

Message from the Chief Counsel

A Bittersweet Farewell

By Dr. Winslow Sargeant, Chief Counsel for Advocacy

Six years ago, in January 2009, I was in my office in Madison, Wisconsin, about to meet with my partners about our portfolio and the future of our venture capital fund. Little did I know that halfway through that same year, I would have been vetted for confirmation, testified before Congress, and faced a filibuster in the Senate for the position of Chief Counsel for Advocacy. It was a challenge to get across the confirmation finish line, but the experience was simply foreshadowing the numerous challenges I would hear about from America's small businesses for the next four years.

As Chief Counsel for Advocacy, I was not only the voice for America's small businesses, but I was required to listen to the regulatory burdens imposed on entrepreneurs. As the enforcer of the Regulatory Flexibility Act, I had to continually strive to create a foundation for acceptable regulations through sound research. The position is multifaceted, but the mission is accomplished with the support of some of the best employees inside the federal government.

When I started with Advocacy, I wanted to make sure that our research was both timely and actionable, the most solid foundation possible for regulations and small business economic growth. I believe our office is fulfilling this goal every day. My first day on the job, I talked about spreading the word about our office and I am pleased to see that our Regional Advocates played an exceptional part in advancing the views of America's small businesses all across the country. Advocacy is not only heard about inside the Beltway, but also in small towns around the nation, from Coeur d'Alene, Idaho, to Buras, Louisiana.

"I am happy to report that during my time with Advocacy, we have shared small business concerns through 145 comment letters and saved small businesses more than $20 billion in first-year regulatory costs."

As a small business advocate, I understand how regulations need to accomplish their goal without placing a disproportionate burden on small business. I am happy to report that during my time with Advocacy, we have shared small business concerns through 138 comment letters and saved small businesses more than $20 billion in first-year regulatory costs. We are supporting America's small businesses every day and we do this with the support of our Congressional leaders.

To advance the mission of the Office of Advocacy, I hope the 114th Congress will continue to value the important role Advocacy plays on behalf of American entrepreneurs. For Advocacy to remain on a path forward, a new Chief Counsel will enable the office to function at full capacity. I hope Congress will swiftly confirm nominee Gilberto de Jesús for this valuable position for our nation's small business owners.

As I leave this position, I know the office will continue as a voice in tune with the issues important to small businesses across this country. Throughout my tenure, I have repeatedly said the entrepreneur seeks to do the unprecedented. So, I do not know what this next chapter in my life will bring, but I know my experience with the Office of Advocacy will help shape my future endeavors.

Chief Counsel for Advocacy Dr. Winslow Sargeant

Legislative News

Congress, *from page 1*

and tax compliance cost to small business.

In the 114th Congress, Republicans will surely advocate for measures that limit the size and scope of government, and regulatory reform bills will most likely be on the agenda. However, even with a different legislative landscape, small business has proven to be the driving force behind the economic recovery and both the Senate and House committees will want to continue to support that success.

Membership of the Senate Committee on Small Business and Entrepreneurship

Republicans

Sen. David Vitter (LA) *(Chairman)*
Sen. James Risch (ID)
Sen. Marco Rubio (FL)
Sen. Rand Paul (KY)
Sen. Tim Scott (SC)
Sen. Deb Fischer (NE)
Sen. Cory Gardner (CO)
Sen. Joni Ernst (IA)
Sen. Kelly Ayotte (NH)
Sen. Mike Enzi (WY)

Democrats

Sen. Ben Cardin (MD) *(Ranking)*
Sen. Maria Cantwell (WA)
Sen. Jeanne Shaheen (NH)
Sen. Heidi Heitkamp (ND)
Sen. Ed Markey (MA)
Sen. Cory Booker (NJ)
Sen. Chris Coons (DE)
Sen. Mazie Hirono (HI)
Sen. Gary Peters (MI)

** At time of publication, the House had not yet released the names of the members of the Small Business Committee.*

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The Small Business Advocate

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The Office of Advocacy is the independent voice for small business in the federal government. The office is the watchdog of the Regulatory Flexibility Act (RFA) and the source of small business statistics. Advocacy advances the views and concerns of small business before Congress, the White House, the federal agencies, the federal courts, and state policymakers.

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