

NDIA San Diego Chapter Navy Gold Coast Small Business Opportunity Conference

Legislative Update

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Small Business Legislation Introduced in 2011

House Provisions

- S.1082 Temporary extension of SBA programs
- H.R. 4 1099 Taxpayer Protection
- H.R. 25 Fair Tax Act of 2011
- H.R. 105 Empowering Patients First Act
- H.R. 117 HELP Veterans Act of 2011
- H.R. 132 Create Jobs by Expanding the R&D Tax Credit
- H.R. 133 Creating Jobs From Innovative Small Businesses H.R. 144 & S128
Small Business Paperwork Elimination H.R. 240 Promote jobs for
veterans
- H.R. 244 Protecting Jobs in Your State Act of 2011

Small Business Legislation Introduced in 2011 Continued

- H.R. 417 Small Business Tax Relief Act of 2011
- H.R. 447 SBIR Enhancement Act of 2011
- H.R. 448 Small Business Innovation Enhancement Act
- H.R. 449 STTR Enhancement Act of 2011
- H.R. 502 Clean Energy Technology and Export Assistance
- H.R. 527 Regulatory Flexibility Improvements Act of 2011
- H.R. 585 Small Business Size Standard Flexibility Act
- H.R. 598 & S.236 Eliminate preferences a for Alaska Native Corporations
- H.R. 743 & S.367 Hire a Hero Act of 2011
- H.R. 744 Women's Business Ownership
- H.R. 924 Jobs for Veterans Act of 2011

Small Business Legislation Introduced in 2011 Continued

H.R. 1050 Small Business Health Fairness Act of 2011

H.R. 1070 Small Company Capital Formation Act of

H.R. 1082 Small Business Capital Access and Job
Preservation Act

H.R. 1137 Small Business Credit Card Act of 2011

H.R. 1180 Small Business Start-Up Savings Account Act

H.R. 1244 Private Employee Ownership Act of 2011

H.R. 1249 America Invents Act

H.R. 1304 Small Business Jobs Act Technical
Corrections Act of 2011

Small Business Legislation Introduced in 2011 Continued

H.R. 1425 Improve STTR and SBIR programs

H.R. 1657 Penalties for misrepresentation of a small business

H.R. 1661 Small Business Tax Relief

H.R. 1663 Work opportunity tax credit for small businesses

H.R. 1730 Small Business Start-up Savings Accounts Act

H.R. 1732 Innovative Technologies Incentive Act

H.R. 1770 Small Business Paperwork Relief Act

H.R. 1812 Small Business Growth Act

H.R. 1984 Small Business Banking Improvement Act

H.R. 1995 Small Business Tax Equity Act

H.R. 2131 Protect HubZones Act

H.R. 2424/S. 1134 Expanding Opportunities for Main Street Act

H.R. 2466 Small Business Efficiency Act

H.R. 2524 Microenterprise Empowerment and Job Creation Act

H.R. 2608 Small Business Program Extension and Reform Act (all except SBIR) (passed in the House, Amended and passed in the Senate, failed in the House)

H.R. 2715 Jump Start Small Business Innovation Act

H.R. 2807 Small Business Leg-up Act

***Small Business Legislation
Introduced in 2011 Continued
Senate Provisions***

- S. 239 Innovate America Act
- S. 256 American Opportunity Act of 2011
- S. 361 Seven Point Plan for Growing Jobs Act
- S. 364 Establish a new Small Business Savings Account
- S. 370 Notify Small Business if Included in Offers
- S. 474 Small Business Regulatory Freedom Act of 2011
- S. 493 SBIR/STTR Re-authorization Act of 2011
- S. 633 Small Business Fraud Prevention Act of 2011
- S.532 Patriot Express Authorization Act of 2011
- S.825 Job Creation Through Innovation Act
- S.1110 Counting contracts toward contracting goals
- S. 1130 Small Business Job Creation Act

Small Business Legislation Introduced in 2011 Continued

For a summary, current status, and/or the full text of each bill, go to: <http://thomas.loc.gov/home/thomas.php>

Click on “Bill Number”, enter the bill you are looking for and click on search.

Any questions/comments contact me at: psteffes@ndia.org

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Small Business Innovative Research (SBIR):

***Current House and Senate Efforts to
Reauthorize the Program***

The Need

- The SBIR Program will lose its current authorization on September 30, 2011
- Efforts to reauthorize on a long term basis have been under way for over three years
- Came close to success with good compromises from all interested parties with approval in the Senate late in 2010, but the House failed to act before the end of the 111th Congress
- House and Senate re-introduced SBIR re-authorization bills at the start of the 112th Congress
 - H.R. 1425 and S. 493

H.R. 1425

- Would reauthorize the program for 3 years
- Would allow firms with less than 50% VC/Hedge Fund/Private Equity Firms ownership to be eligible for
 - Up to 45% of the total funds spent on SBIR at NIH, DoE, NASA, and NSF
 - Up to 35% of the total funds spent on SBIR at DoD and other federal agencies
- Allows for some firms to skip the Phase I process completely
- Limits on the number of awards successful SBIR firms can receive
- No allocation increase for SBIR program
- No limits on citizenship status of firm owners
- Passed by the House SB Committee 7/1/2011
- Waiting House Floor Action

- Reauthorizes the program for 8 years
- Makes firms majority owned and controlled by multiple venture capital firms eligible for
 - up to 25% of the total funds spent on SBIR at NIH, DoE, NASA, and NSF
 - up to 15% of the total funds spent on SBIR at DoD and other federal agencies
- Restricts SBIR firm ownership to US Citizens
- Gradually increases the SBIR allocation to 3.5%
- Limits award increases to 50% (\$225,000 for Phase I, \$1.5 million for Phase II) to address “jumbo” awards that have greatly exceeded the guidelines for Phase I and Phase II and cut out other companies from competition
- Approved by Senate SB Committee 3/9/2011
- Withdrawn from Senate Floor Action 5/4/2011

The Outlook

- September 30, 2011 is just over a month away
- Congress does not plan to return from recess until early September
- Significant distractions
 - FY 2012 Appropriations
 - “Debt Reduction Super Committee” work
 - Continuing lack of compromise between House and Senate on SBIR

Repeal 3% Withholding Tax

- Will require 3% withholding on all Federal/State contracts
- IRS Delayed current Implementation date to January 1, 2013.
- Repeal has been unsuccessful due to jurisdiction & scoring problems
- Attempts to place in SBIR/STTR reauthorization bill unsuccessful
- House Small Business Committee held hearing on 5/26/2011, NDIA submitted a statement for the hearing record
- NDIA is one of a 150+ member coalition advocating repeal
- NDIA Hill Visits: House Majority Leader, House & Senate Small Business Committees.
- Repeal Legislation Proposed:
 - House Bill, HR 674 (Herger bill) has 221 cosponsors
 - Senate bill, S. 89 (Vitter bill) has 11 cosponsors
 - Senate bill, S. 164 (Brown bill) has 21 cosponsors

Impact of Regulatory Costs on Small Businesses

- US Small Businesses Represent:
 - 99% of all employers
 - 44% of the total US private sector payroll
 - 40% of high-tech workers
 - 97.3% of all identified exporters, 30.2% of known export value
 - 33.3% of federal prime and subcontract dollars
- US Small Businesses (20 or fewer employees) pay an average of \$10,585 per employee for regulatory costs, which is 36% higher than large firms (500 employees or more)
- Environmental regulation costs 364% more for small firms and 206% more for tax compliance.

Impact of Regulatory Costs on Small Businesses Continued

Annual Cost Per Employee of Federal Regulations by Firm Size

Type of Regulation	Cost All Firms	Fewer than 20 Employees	20-499 Employees	500 + Employees
All Federal Regulation	\$8,086	\$10,585	\$7,454	\$7,755
Economic	5,153	4,120	4,750	5,835
Environmental	1,523	4,101	1,294	883
Tax Compliance	800	1,584	760	517
Occupational Safety and Health Homeland Security	600	781	650	520

- Source: *The Impact of Regulatory Costs on Small Firms*, by Nicole Crain and Mark Crain, 2010. U.S. Small Business Administration, Office of Advocacy

Proposed Executive Order (EO) on Disclosure of Contractor Contributions

- A proposed EO would direct federal agencies to require contractors to disclose political expenditures and contributions made within two years of all proposal submissions in an official contracting certification.
- The proposed EO would require contractors to certify their acknowledgment that full disclosure of this information has been made as a precondition for the contract award.
- Failure to make a full disclosure in the certification process could result in criminal prosecution.

Proposed Executive Order (EO) on Disclosure of Contractor Contributions - Continued

- Joint hearing held May 12th by House Oversight & Government Reform and Small Business Committees
 - NDIA testified strongly against the proposed EO
 - Video of the hearing can be found at:
- http://oversight.house.gov/index.php?option=com_content&view=article&id=1284%3A5-12-11-qpoliticizing-procurement-would-president-obamas-proposal-curb-free-speech-and-hurt-small-businessq&catid=12&Itemid=20

Proposed Executive Order (EO) on Disclosure of Contractor Contributions - Continued

- H.R. 1906 filed May 13th that would prohibit executive agencies from requiring the disclosure of political contributions by an entity submitting an offer for a Federal contract.
- H.R. 1540 (NDAA for FY-12) included an amendment that would prohibit executive agencies from requiring the disclosure of political contributions by an entity submitting an offer for a Federal contract.
- At least two other Appropriations Bills include similar language

Export Control Requirements for All Manufactures of Products Sold to the Department of Defense

- **International Traffic in Arms Regulations (ITAR)** is a set of United States government regulations that control the export and import of defense-related articles and services. **ITAR 122.1** requires registration.
- ***Purpose.*** Registration is primarily a means to provide the U.S. Government with necessary information on who is involved in certain manufacturing and exporting activities. Registration does not confer any export rights or privileges. It is generally a precondition to the issuance of any license or other approval under this subchapter.

Export Control Requirements - Continued

ITAR 122.1 Registration requirements.

- “Any person who engages in the United States in the business of either manufacturing or exporting defense articles or furnishing defense services is required to register with the Directorate of Defense Trade Controls. For the purpose of this subchapter, engaging in the business of manufacturing or exporting defense articles or furnishing defense services requires only one occasion of manufacturing or exporting a defense article or furnishing a defense service.”

Export Control Requirements - Continued

- ***Exemptions.*** Registration is not required for:
 - (1) Officers and employees of the United States Government acting in an official capacity.
 - (2) Persons whose pertinent business activity is confined to the production of unclassified technical data only.
 - (3) Persons all of whose manufacturing and export activities are licensed under the Atomic Energy Act of 1954, as amended.
 - (4) Persons who engage only in the fabrication of articles for experimental or scientific purpose, including research and development.

Department of State Contacts for Further Information

- **CONTACT INFORMATION**

- **RESPONSE TEAM:** *For Defense Trade inquiries related to basic process and status*
- Hours: 9am - 5pm Eastern U.S. time Phone: (202) 663-1282 E-mail: DDTCResponseTeam@state.gov
- **HELP DESK** *For Technical Issues*
- Hours: 9am - 5pm Eastern U.S. time Phone: (202) 663-2838 E-mail: DTradeHelpdesk@state.gov

For Further Information

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Questions - Comments

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