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Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Small Business, Emergency
Preparedness, Technical Colleges, and Consumer
Protection (SC-SBEPTCCP)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection

Assembly Bill 767

Relating to: changes to the membership of the Small Business Regulatory Review Board, notification to the Small Business Regulatory Review Board of bills with an economic impact on small businesses, and the role of the Office of the Small Business Advocate in the Department of Commerce.

By Representatives Barca, Dexter, Strachota, Bernard Schaber, Clark, Zigmunt, Garthwaite, Hilgenberg, Shilling, Jorgensen, Steinbrink, Kerkman, Smith, Sinicki, Hubler, Berceau, Turner and Schneider; cosponsored by Senators Plale, Wirch, Darling, Vinehout, Lassa and Taylor.

March 08, 2010 Referred to Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection.

March 16, 2010 **PUBLIC HEARING HELD**

Present: (4) Senators Wirch, Plale, Hopper and Lazich.
Absent: (1) Senator Holperin.

Appearances For

- Peter Barca — Representative
- Katie Buhrandt — Senator Jeff Plale's Office
- Bill Smith, Madison — National Federation of Independent Business

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- None.

Registrations Against

- Mark Reihl — WI State Council of Carpenters
- Joanne Ricca — WI State AFL-CIO

Registrations for Information Only

- None.

April 7, 2010

EXECUTIVE SESSION HELD

Present: (5) Senators Wirch, Plale, Holperin, Hopper and Lazich.

Absent: (0) None.

Moved by Senator Plale, seconded by Senator Wirch that **Senate Amendment 1** be recommended for adoption.

Ayes: (5) Senators Wirch, Plale, Holperin, Hopper and Lazich.

Noes: (0) None.


ADOPTION OF SENATE AMENDMENT 1 RECOMMENDED,
Ayes 5, Noes 0

Moved by Senator Plale, seconded by Senator Holperin that **Assembly Bill 767** be recommended for concurrence as amended.

Ayes: (5) Senators Wirch, Plale, Holperin, Hopper and Lazich.

Noes: (0) None.

CONCURRENCE AS AMENDED RECOMMENDED, Ayes 5,
Noes 0



Michael Tierney
Committee Clerk

Peter W.
BARCA



Majority Caucus Chairman

Co-Chair, Joint Committee on Audit
Committee on Financial Institutions
Chair, Partnership for a Stronger Economy
Committee on Jobs, the Economy & Small Business

March 16, 2010

Regulatory Flexibility and Enforcement Fairness Act - Assembly Bill 767
Representative Peter Barca

Chairman Wirth and members of the Senate Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection; thank you for holding a public hearing on Assembly Bill 767. This bill will make the Small Business Regulatory Review Board more effective, and reinvent and strengthen the function currently known as the Small Business Ombudsman Clearinghouse as the Small Business Advocate by creating a permanent position and giving the position a stronger role, added responsibilities and more clout to lend small businesses a greater voice, fuller consideration and relief on regulatory issues to provide more direct assistance to businesses.

As the Partnership for a Stronger Economy has traveled the state, one of the concerns that small businesses have raised is that the state should strive to better understand the needs of small businesses, improve communication, and when possible work with small businesses to ensure regulations are not overly burdensome and penalties are not unnecessarily punitive.

Under the bill, state agencies are required to make an effort to educate and work with small businesses to help them to comply with regulations. They are encouraged to utilize written warnings, reduced fines, and other options to achieve rule compliance and avoid unnecessarily penalizing small businesses that are in violation of minor regulations that do not endanger the health and safety of people, the workplace or the environment, where the business is acting in good-faith to comply with the regulation.

Upon the request of a business, the Small Business Advocate will review and investigate the circumstances of an enforcement action against a small business and make recommendations regarding alternative enforcement to the enforcing agency. Agencies are required to respond within 45 days. The Small Business Advocate is required to compile data regarding these investigations, analyze the data for trends, and annually report findings and recommendations to the Governor and Legislature.

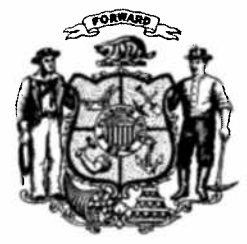
Following my initial term in the legislature and tenure in Congress, I served as the Midwest Administrator for the US Small Business Administration. When the Federal Small Business Regulatory Enforcement Act was signed into law, I was appointed as the first National Ombudsman to oversee the program and the National Regulatory Fairness Board for the SBA. This legislation is an effort to replicate elements of the federal process.

The bill also ensures that the Small Business Regulatory Review Board, the committee charged with reviewing proposed regulations and making suggestions on how they can be modified to mitigate adverse effects on small businesses, has the opportunity to review any administrative rule that will have an economic impact on the state's small businesses, rather than simply the rules that state agencies believe will have a "significant" economic impact. Further, the bill adds an additional small business representative and removes agency representatives, which currently outnumber small business representatives. This legislation was developed in collaboration with the National Federation of Independent Businesses.

There is no doubt that the key to economic prosperity and the best way to create economic growth following the national financial crisis is to support small businesses. This bipartisan effort is an attempt to really make sure that there is someone in Madison whose only duty is looking out for small businesses. I thank all of you for your time today and I hope that we can count on your support when Assembly Bill 767 comes for a vote before this committee.



WISCONSIN STATE LEGISLATURE





SENATOR JEFF PLALE
SEVENTH SENATE DISTRICT

CHAIR
COMMITTEE ON COMMERCE, UTILITIES, ENERGY, AND RAIL

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**Testimony of Senator Jeff Plale
Assembly Bill 767
Senate Committee on Small Business, Emergency Preparedness, Technical Colleges,
and Consumer Protection
March 16, 2010**

Thank you, Chairman Wirch and fellow members of the committee, for your consideration of Assembly Bill 767.

I am very pleased to testify in favor of this important bill, the Regulatory Flexibility and Enforcement Fairness Act.

Successful small businesses are the foundation of a healthy economy. A huge majority, 98%, of employers in Wisconsin are small businesses. As legislators and government officials, we should be doing everything in our power to promote small businesses and encourage job growth, especially in such trying economic circumstances.

AB 767 recognizes the critical role that small business plays in Wisconsin. The legislation increases the involvement and authority of the Small Business Regulatory Review Board. It reinvents and adds more teeth to the Small Business Ombudsman Clearinghouse and changes its title to the Office of the Small Business Advocate. The bill specifies that there must be at least one full time position dedicated to the Office of the Small Business Advocate to help assist that entity in dealing more directly with small businesses and agencies in small business matters.

Essentially, AB 767 requires agencies to more thoroughly consider the impact on small businesses when making decisions that may affect them. The bill helps small businesses stay in compliance with state rules and regulations, encourages state agencies to employ less severe enforcement actions for minor administrative rule violations whenever possible, and broadens the scope in which an agency should consider any economic impact on small businesses when making rules and other decisions.

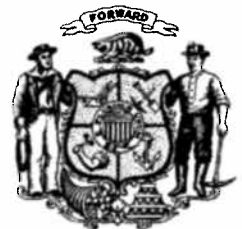
This legislation has the support of the National Federation of Independent Businesses and is an essential step in further improving the relationship between the State of Wisconsin and the small businesses so critical to our economic health and potential.

Thank you for your time and consideration of AB 767. I am happy to answer any questions you may have regarding this bill.





WISCONSIN STATE LEGISLATURE





The Voice of Small Business®

Wisconsin

**Statement Before the
Senate Committee on Small Business, Emergency Preparedness, Technical
Colleges, and Consumer Protection**

By

**Bill G. Smith
State Director
National Federation of Independent Business
Wisconsin Chapter**

**Tuesday, March 16, 2010
Assembly Bill 767**

Mr. Chairman and members of the Committee, on behalf of the 12,000 member firms of NFIB/Wisconsin, thank you for today's hearing and your prompt consideration of Assembly Bill 767.

In 1980, President Jimmy Carter signed into law the then historic Regulatory Flexibility Act.

However, since 85 percent of Wisconsin firms have fewer than 20 employees, and three out of every four employ fewer than 10 workers, we quickly learned the need for more effective regulation of small business did not stop at the federal level.

In 1983, Governor Tony Earl signed into law a state version of the Regulatory Flexibility Act as part of the 1983 special session on economic development.

In 1996, and again in 2002, the federal Regulatory Flexibility Act was amended to improve its effectiveness and efficiency in meeting the goals of the federal regulatory flexibility law.

In 2003, the Legislature enacted into law the Small Business Regulatory Fairness Act, the first revisions to Wisconsin's regulatory flexibility law enacted in 1983.

These laws call on government to be more sensitive to how regulations impact small business. The goals of the regulatory flexibility concept is to help government understand and address the inequity and basic unfairness of regulating Al's Garage in Rhinelander the same as Briggs and Stratton in Milwaukee.

**Statement Before the Senate Committee on Small Business, Emergency Preparedness,
Technical Colleges, and Consumer Protection -- continued**
March 16, 2010
Page Two

The 2003 Small Business Regulatory Fairness Act, signed into law by Governor Jim Doyle, included the creation of a Small Business Regulatory Review Board, and was also the first revisions to the Wisconsin regulatory flexibility law since enactment in 1983.

Assembly Bill 767 includes provisions that will streamline the regulatory review process, modify the membership of the Small Business Regulatory Review Board, and restore the duties of small business assistance at the Department of Commerce.

We believe this legislation addresses the procedural problems encountered by the Small Business Regulatory Review Board, and would also restore and expand the important function of providing valuable assistance to our state's small business community by the Department of Commerce.

According to SBA's Office of Advocacy, small business spends up to 80 percent more per employee complying with regulations than big business. And while small business employs 53 percent of the workforce, small business shoulders about 63 percent of the total cost of regulations.

In today's regulatory environment, small business owners often find themselves unsure of their compliance status, unaware of new regulations under development, uninvolved in the rule-making process, and uncertain of who to call for help within a state agency.

Studies by NFIB show a majority of our members find it is impossible to have knowledge and be in compliance with all the regulations that affect their business. And one in five small business owners believe the cost of regulations has caused them to eliminate jobs, or forced them to postpone the growth or expansion of their business.

Faced with unprecedented economic challenges, it is essential that regulatory barriers to small business growth and job creation be removed.

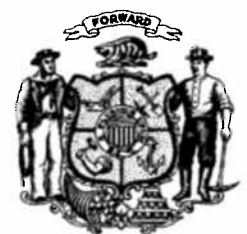
Assembly Bill 767 will significantly improve the regulatory process, increase regulatory compliance, promote more cost effective regulatory enforcement, and strengthen Wisconsin's economy by reducing the negative impact of regulations on our Main Street small businesses.

We are grateful to Senator Plale, Representative Barca, and all the co-sponsors of this important legislation, and **I urge members of the Committee to act promptly and favorably for passage.**

Thank you for your consideration.



WISCONSIN STATE LEGISLATURE



March 25, 2010

Senator Wirch
Chair, Senate Small Business, Emergency Preparedness, Technical Colleges and
Consumer Protection Committee
Room 316 South Capitol
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Reference: AB 767

Dear Senator Wirch:

I am writing to you today on behalf of the Small Business Environmental Council (SBEC). The SBEC members had an opportunity to hear a summary of AB 767 from Bill Smith, National Federation of Independent Business (NFIB) at our March 3, 2010 meeting. Following our meeting, council members reviewed the contents of the bill in greater detail.

Though the council feels strongly that the office of the Small Business Ombudsman/Advocate is a critical position for maintaining an access point for small business to request assistance, the council has some concerns with the bill as proposed.

The council would welcome the opportunity, should it present, to meet with you to discuss the contents of the proposed legislation, and the opportunities that may be available to increase awareness and participation from the small business community. We would encourage ongoing communication between the various agencies as well.

The SBEC is comprised of small business owners or those representing small businesses and meet regularly to discuss environmental issues affecting small businesses in Wisconsin. The SBEC works to create awareness in the business community of rules that may impact them, and encourages small business input upfront, rather than at the backend which can lead to difficulty in the implementation and compliance of rules.

If there is an opportunity for the SBEC to offer additional feedback, please do not hesitate to contact me. Thank you for your service.

Respectfully,

Jeanne Whitish

Jeanne Whitish, Chair

Wisconsin Small Business Environmental Council

President

Madison Golf and Development Group, LLC

Phone: 608-836-0596

Email: JWhitish@madisongolf.com

Cc: Commerce Secretary, Dick Leinenkugel
WDNR Secretary, Matthew Frank
Senator Plale Representative Barca
Senator Darling Tom Coogan, Commerce
Senator Vinehout
Senator Lassa
Senator Taylor





The Voice of Small Business®

Wisconsin

MEMORANDUM

TO: Members of the Senate Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection

FROM: Bill G. Smith, State Director

DATE: April 6, 2010

RE: Response to Opposition to Assembly Bill 767

I am disappointed the AFL-CIO and the State Council of Carpenters have decided to attack legislation that will improve the regulatory review process, increase regulatory compliance, promote more cost effective regulatory enforcement, and strengthen Wisconsin's economy by reducing the negative impact of regulations on small business.

“Excessive and arbitrary regulation is a growing threat to the survival of small business in this country, small business should not be expected to comply with the same regulation demands as a large corporation.”

- Senator Gaylord Nelson

The AFL-CIO is objecting to a process first championed by Senator Gaylord Nelson.

- CLAIM:** AB 767 provides the Small Business Regulatory Review Board a special right to question proposed rules, even if they don't have substantial impact on small the business sector.
- FACT:** Assembly Bill 767 streamlines the regulatory review process by no longer requiring the regulatory agency to determine if the impact of a regulation on small business is substantial. This legislation relieves agencies from the burden of making that analysis.
- CLAIM:** The board can recommend the proposed rule be withdrawn.
- FACT:** There is no provision in current law or in Assembly Bill 767 that authorizes the board to recommend a proposed regulation be withdrawn from the regulatory process. Assembly Bill 767 is consistent with current law that allows the board to assist the agency with determining the impact of the rule on small business, and shall ask the agencies to comply with the requirements of the law. Obviously, the Joint Committee for Review of Administrative Rules has authority over the final disposition of proposed rules.

CLAIM: Labor standards and worker safety will be undermined by further enhancing the privileged standing of the small business sector in the administrative rule process.

FACT: Current law does not allow any discretion in the enforcement of a rule or guideline if the violation may result in imminent endangerment to the environment or to public health or safety. Obviously, there is no threat to worker safety labor standards, or consumers created by current law or Assembly Bill 767.

CLAIM: AB 767 requires agencies to create alternative enforcement mechanisms and allows small businesses to be granted unspecified reduced penalties for certain violations.

FACT: According to the Legislative Council, “Alternative enforcement mechanisms only apply to minor violations of administrative rules, and discretion is allowed only when the violation does not pose a threat to public health, safety, welfare, or to the environment of the workplace.”

NFIB does not support repealing or revising an existing rule or guideline that would create a public health hazard or place the health, safety or welfare of people at risk.

CLAIM: At the same time, state agencies are struggling under staff and budget cuts, AB 767 places additional demands on the time and attention that staff must give to this special interest group.

FACT: According to fiscal analysis by state agencies, AB 767 will either have no fiscal impact, or any costs associated with this legislation will be absorbed into existing budgets.

HALF-RIGHT: The opposition claims small business is a special interest group.

FACT: The interests of small business are special:

- Small business employs about 55% of all private sector workers, yet shoulders about 63 percent of the total regulatory burden.
- Small business spends up to 80 percent more per employee complying with regulations than big business.
- Small business creates two out of every three net new jobs.

*PROMOTING A REGULATORY CLIMATE CONDUCIVE TO THE
DEVELOPMENT OF SMALLER FIRMS IS A MAJOR CONSIDERATION
IN ECONOMIC GROWTH POLICIES.*

- *Organization for Economic Cooperation*

*"I believe we need to take some steps to build flexibility into the encounters
that small businesses have with regulatory agencies and to help small
businesses that are making honest efforts to comply with regulations."*

- *Senator Russ Feingold*

Introduced with bi-partisan support, Assembly Bill 767 passed the Assembly 94-0, and had no opposition during the Assembly Public Hearing. It is clear the opposition by the AFL-CIO and State Council of Carpenters has no basis in the context of current laws, enacted in 1983 and 2003, or within the provisions of Assembly Bill 767.

This important legislation has the strong support of Wisconsin's small business community, and we urge members of the committee to act promptly and favorably on passage.

Thank you for your consideration.