

2008 ANNUAL REPORT

NEW YORK STATE ASSEMBLY

COMMITTEE ON
SMALL BUSINESS



Sheldon Silver, Speaker

Mark S. Weprin, Chairman

December 15, 2008

Honorable Sheldon Silver, Speaker
New York State Assembly
Legislative Office Building, Room 932
Albany, New York 12248

Dear Speaker Silver:

It is my pleasure to present to you the 2008 Annual Report for the Assembly Standing Committee on Small Business.

Throughout the 2008 legislative session, the Committee remained dedicated to the creation of small business enterprises. This dedication led to the passing of a small business package aimed at helping small businesses thrive in today's challenging marketplace.

The Committee also introduced legislation designed to help small businesses to comply with environmental laws and regulations. In addition, the Committee introduced bills intended to create better access to capital through the expansion of the Excelsior Linked Deposit Program and the Niche Market Assistance Program.

The Committee recognizes that minority and women-owned businesses have become the fastest-growing segment of entrepreneurs, and both populations are well represented in New York. The Committee will continue to examine the full range of issues affecting the small business workplace and its capitalization needs. We look forward to playing an active and productive role in these areas in 2009.

I join with my colleagues on the Small Business Committee in commending you for your commitment to and support of small business development. The Committee eagerly anticipates another session under your leadership so that we can continue to pursue efforts to create a healthy environment for small business prosperity in New York State.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Weprin". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mark S. Weprin, Chairman
Committee on Small Business

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NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON SMALL BUSINESS

Mark S. Weprin
Chairman

Committee Members

Majority

Joan K. Christensen
David Koon
Joan L. Millman
Jose Rivera
Adam Clayton Powell, IV
Michele R. Titus
Annette Robinson
Mark J. Schroeder
Albert A. Stirpe, Jr.
Tim Gordon

Minority

Bill Reilich
Michael J. Fitzpatrick
Ann Rabbitt
Tom McKeivitt

Staff

Ernest Amabile, Legislative Coordinator
Steven McCutcheon, Legislative Analyst
Teri Kleinmann, Associate Counsel
Quinn Hubbell, Committee Assistant
Darlene Mullally, Legislative Director
Susan Egan, Committee Clerk

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I. INTRODUCTION

The New York small business sector continues to prove itself the driving force in the State's economy. Small businesses are defined in State law as those employing one hundred or fewer people. This includes over one million businesses in New York State comprising 99% of the State's businesses and employing over 55% of the State's workforce. These companies often need help in advancing to a level of profitability at which they can move forward and create jobs. Small businesses that fail to grow are often unable to gain access to needed capital and other means of assistance. The Small Business Committee believes that the State must focus more attention on the sector of the business community that creates nearly eight out of every ten jobs.

Minority and women-owned businesses have become the fastest growing segment of entrepreneurs. In addition, a surprising number of home-based businesses have appeared in recent years, causing some economists to conclude that very small businesses (those comprising ten or fewer employees) are increasingly becoming major players in the State's economy. It is estimated that four out of every five small businesses (81%) in New York have fewer than ten employees, and nearly two-thirds (65%) have fewer than five employees, referred to as micro-enterprises. The importance of these small ventures cannot be overstated: by testing new ideas, products, and processes, they are re-inventing New York State's future in the global marketplace.

II. COMMITTEE JURISDICTION AND ACTIVITY

New York State statutes affected by legislation before the Small Business Committee include the Banking Law, Economic Development Law, State Finance Law, Public Authorities Law, Labor Law, and the Civil Practice Law and Rules.

Although the Committee's areas of concern are wide-ranging, many bills that affect small business are integrally related to the jurisdictions of other Assembly committees. As a result, many small business issues, such as changes in taxation, economic development programs, insurance, State agencies' regulatory practices, and employee benefit programs, are not directly within the jurisdiction of the Small Business Committee. These and many other issues of importance to small businesses are referred to other Assembly committees that have direct jurisdiction over such subjects. They include the Committees on Economic Development, Job Creation, Commerce & Industry; Banks; Labor; Insurance; Governmental Operations; and Ways and Means. The Small Business Committee remains involved by working closely with these committees.

The Committee also works closely with a number of State agencies and public authorities to ensure that they are serving the needs of the small business community, including the Department of Economic Development (DED), the New York Office of Science, Technology and Academic Research (NYSTAR) (formerly known as the Science and Technology Foundation), the Job Development Authority (JDA), the Empire State Development Corporation (ESDC), and the Urban Development Corporation (UDC, a public authority of ESDC), which are the State's chief economic development entities. The Committee also oversees the work of the State University of New York in administering the Small Business Development Centers (SBDC) Program.

During the 2008 Legislation Session, the Standing Committee on Small Business reported twenty-eight bills favorably. In addition, a number of bills that were of importance to small firms but were referred to other committees became law with the assistance and input of the Small Business Committee.

The Committee will continue to be active in Assembly and State efforts to advance the needs of small businesses, while also advocating reforms to improve New York State's business climate.

III. 2008-2009 SMALL BUSINESS BUDGET OUTCOME

The Assembly fought for key initiatives to boost New York's economy and create jobs and opportunities for small businesses and entrepreneurs. The following are budget highlights that impact small businesses in New York State.

PROGRAMMATIC ISSUES

1. Urban Development Corporation/Empire State Development Corporation

The Urban Development Corporation (UDC) is currently doing business as the Empire State Development Corporation (ESDC). The mission of the UDC/ESDC is to promote economic development and real estate development by providing financial assistance to local governments, businesses and not-for-profit corporations engaged in economic development activities. In addition, the UDC/ESDC is engaged in housing portfolio maintenance and provides State facility financing for the construction and modernization of State correctional facilities, as well as other special projects. The following are highlights relating to small business programs that are funded through UDC/ESDC:

- Jobs Now (**\$32.1 million**) program provides funding for large-scale projects that create new jobs;
- Economic Development Fund (**\$20 million**) provides funds for projects that create or retain jobs;
- Minority and Women-Owned Business Development and Lending Programs (**\$3.5 million**) provides for available capital for local funds targeted to small "micro loans" for start-up of minority and women-owned businesses and provide funding intended for program activities in economically distressed and highly distressed areas.

2. New York Office of Science, Technology & Academic Research (NYSTAR)

NYSTAR is responsible for directing the State's university-based high-technology economic development programs. In addition, the Office develops comprehensive plans to attract and retain high-technology businesses with the potential for significant job creation in New York State. The high-technology program within NYSTAR received funding totaling **\$33.2 million**, which included the following:

- Centers for Advanced Technology (CAT's) which collaborate with New York companies on the development of new technologies and products, which in turn create new businesses and high quality jobs throughout the State, were fully funded at **\$15 million** for the existing 15 CATs that are located throughout the State.
- Technology Development Organizations (TDOs) which provide technical assistance to high-tech companies seeking to remain competitive were funded at a total of **\$1.5 million**.
- Industrial Technology Extension Services (ITES) whose ITES field agents located throughout the State provide technical and managerial assistance to small and mid-sized New York manufacturers seeking to improve their competitiveness received **\$1 million**.

IV. MAJOR ISSUES OF 2008

A. REGULATORY REFORM

Annual Summary of Key Legislation

(A.732, Christensen; signed, Chapter 427)

It is important to provide the small business community with vital information that impacts them on a daily basis and makes them better prepared to comply with changes made by the Legislature or Executive. This bill would require the Department of Economic Development and the Governor's Office of Regulatory Reform (GORR) to jointly prepare an annual summary for the small business community of the key legislative, budgetary and regulatory changes impacting small business. Additionally, this bill would provide specific contact information within the appropriate agency for inquiries regarding implementation and compliance.

B. BUSINESS CREATION ASSISTANCE

1. Transfers Oversight of the Small Business Innovation Research Program to NYSTAR

(A.6149, Schimminger; passed Assembly)

Bridging the gap between Phase I and Phase II SBIR can be a challenge for many companies in New York State. In order to promote research and development within the State, this bill transfers the oversight of the Small Business Innovation Research (SBIR) Program to the New York State Office of Science, Technology, and Academic Research (NYSTAR) and provides a set of criteria for small businesses to follow. Providing this kind of support allows small business to continue to pursue research and development while waiting for SBIR phase II grant fund (a period of time during which no federal funds are available) and ensures that the research will be conducted solely within New York State.

2. Statewide Information and Referral System Call Center

(A.7292-A, Koon; referred to Ways and Means)

Easy access to information regarding the State's economic development and small business assistance programs is crucial for busy entrepreneurs. This legislation provides a referral call system designed for convenience and speed by matching the State's services to the availability and need of callers.

3. New York Entrepreneur of the Year Award
(A.9997, Weprin; Veto Memo #63)

In order to encourage entrepreneurship in New York State, this bill provides for the creation of the “New York Entrepreneur of the Year Award” to honor an individual from the small business entrepreneurial community who exemplifies outstanding originality and viability. The award would be given by the re-named Small Business and Entrepreneurship Advisory Board annually and include a monetary amount of \$25,000 to assist the recipient with his/her entrepreneurial efforts.

4. Entrepreneurship Assistance Centers
(A.11032, Weprin; passed Assembly)

The Entrepreneurial Assistance Program establishes centers in local communities to provide instruction, training, technical assistance and support services to individuals who have recently started their own business or are interested in starting a business. EAP assists new and aspiring entrepreneurs in developing basic business management skills, refining business concepts, devising early-stage marketing plans and preparation of action plans. In addition, the program actively assists EAP client efforts to obtain business financing. Two thirds of the centers operate or are formally affiliated with a micro loan fund. Currently the statute does not reflect how the EAP functions. This legislation will streamline the program and more accurately reflect how this program has evolved.

C. CAPITAL FORMATION & DEVELOPMENT

1. Relates to the Excelsior Linked Deposit Program
(A.4066, Lafayette; referred to Ways and Means)

With the recent trend in reducing the amount of public funding available to directly support assistance programs, more emphasis needs to be placed on finding ways to encourage the private sector to assist. By utilizing the incentive system of the Excelsior Linked Deposit Program, whereby the State places a portion of its deposits with a financial institution which makes economic development loans in poor communities, this legislation encourages the financial services industry to offer these special accounts not only to their own customers, but to public assistance recipients as well. Individual development accounts not only offer a way for many public assistance recipients to gradually acquire financial assets which they will be able to rely on later in life, providing a crucial level of security, but they also offer a way for people to acquire bank accounts and learn how to manage money in a more productive manner.

2. Authorizes the Comptroller and the Commissioner of Taxation to Make Linked Deposits with Lenders to Eligible Businesses
(A.4099, Rivera, P.; passed Assembly)

The Excelsior Linked Deposit Program, established in 1993, has been a tremendous success in providing attractive financing terms to small businesses that wish to establish or expand their operations in New York. The program has more than doubled in size since its inception and has been expanded both by including additional lenders and by increasing the amount of loans and the size of deposits that may be made.

In many communities in New York, new entrepreneurs and other small business owners need only modest additional funding to expand their businesses and create significant numbers of additional jobs. This is especially true in the service industries and in some economically disadvantaged areas. This legislation would permit the Comptroller and the Department of Taxation and Finance to make a single linked deposit that will be equivalent to a series of small business loans, each of which will be \$50,000 or less in principal amount. With a commitment from the State to make a larger linked deposit, a lender will be able to make such a series of smaller loans, knowing that the deposit funds will be available at the time the loans are closed. These types of smaller loans will be particularly helpful for minority-owned businesses and businesses in distressed areas.

3. Small Business Technology Innovation Program
(A.6149, Schimminger; passed Assembly)

The State Small Business Innovation Research (SBIR) Program, which began in FY 1984-1985, was designed to provide assistance to New York's newer high technology companies, helping them compete for a greater share of the federal research contracts awarded under the federal SBIR program. The State program was highly successful, increasing the amount of federal SBIR dollars coming into the State from under \$5 million annually to over \$30 million by 1991. As importantly, State assistance under this program greatly increased the success of federal SBIR Phase I award winners to compete for much larger SBIR Phase II awards.

Although the State SBIR statute remains in effect, the State stopped funding the program after its initial success, in part because of disagreement over how to allocate limited funds among the federal SBIR award winners. Consequently, New York State, which had moved from 6th to 3rd place among the states in the number of Phase I winners, has seen its number of State winners decrease dramatically since funding for the State program ceased. This legislation clarifies how funds will be allocated so that the program can begin anew to assist small high technology companies compete for federal SBIR funds which will help them grow and provide new jobs for New York citizens.

4. Small Business Innovation Matching Grants Program
(A.10364, Schimminger; passed Assembly)

To increase the growth and enhance the development of early-stage firms in New York State, the Small Business Innovation Matching Grants Program provides matching funds, up to \$250,000, to eligible small businesses that have already been awarded a federal Phase II SBIR or STTR grant. The matching funds will help small businesses conducting research and development in the biosciences to progress towards the commercialization or fabrication within the State of new or improved products, processes, or services.

5. Increasing the Loan Cap on Joint Venture Loans
(A.10981, Sweeney; signed, Chapter 419)

In 2004, the Legislature authorized the formation of a joint venture investment company that would be controlled by a not-for-profit community economic development organization, for the purpose of making section 7A SBA loans to small businesses that did not meet the traditional underwriting criteria used by banking organizations in evaluating loan applications. It further authorized that banks could partner with the not-for-profit agency in funding the joint venture that would serve these minority and disadvantaged borrowers. The joint venture is regulated by the Banking Department. In 2005, Chapter 372 made technical amendments to the 2004 chapter. A successful program has since been developed on Long Island by the Community Building Fund with the participation of ten banks that provide capital as part of their community investment requirements. The borrowers in the program are referred to the Community Building Fund by participating and non-participating banks because although these banks believe these applicants are good risks, the banks themselves cannot grant the loans because the applicants do not meet the underwriting criteria used by commercial lenders. During the last few years, it has become apparent that the original per loan cap of \$300,000 is inadequate. This legislation raises the cap to \$950,000 so that more loans can be made, producing jobs and economic results for the region.

D. ENVIRONMENTAL COMPLIANCE FOR SMALL BUSINESS

1. Small Business Compliance and Pollution Prevention

(A.1062, Destito; passed Assembly)

Pollution prevention not only protects the environment and the health of business's employees and the surrounding community, but also can lower production costs and enhance the business's ability to compete. There is broad support for promoting investments in pollution prevention, and the State has already initiated several programs to provide technical and financial assistance for multi-media pollution prevention activities.

In particular, many small businesses want to meet environmental goals, but may need technical assistance and help in financing changes to their operations to do so. This legislation would authorize the Department of Economic Development to provide information and assistance to small businesses on environmental compliance requirements and pollution prevention. The Department of Economic Development regional offices will be able to assist small businesses in accessing available programs of technical and financial assistance to promote compliance standards.

2. Financial Assistance to small businesses for environmental compliance

(A.7486, Destito; referred to Ways and Means)

The federal Clean Air Act, the State Clean Air Compliance Act of 1993, the federal Clean Water Act and the State's Industrial Hazardous Waste Management statute imposed considerable new burdens on many small businesses across New York State. As a result of these new regulatory activities, many small firms must now invest in pollution control equipment at a time when access to capital for small businesses is difficult. Both private and public sources of financing have historically avoided small business lending because of the relatively higher risks and administrative costs of those loans. This bill would build upon existing relationships between the small business community and the financial institution and involve the expenditure of State funds only in the event of a default on the loan. The fund would not only assist small businesses and New York State in achieving compliance with Clean Air, Clean Water and Hazardous Waste Management requirements, but would also assist many businesses in developing better credit relationships with private lenders.

E. BILLS REFERENCED TO OTHER COMMITTEES

1. Economic Development, Job Creation, Commerce and Industry

- A.6906, Koon; tabled - would require State economic development agencies to give preference to small businesses and entrepreneurs when awarding State economic development assistance.

2. Governmental Operations

- A.4498, Cook, passed Assembly - would extend and improve the law to help minority and women-owned business enterprises continue to develop.

3. Environmental Conservation

- A.4542, Morelle; referred to Environmental Conservation Committee - would assist small quantity generators of hazardous waste in complying with governmental regulations.

4. Insurance Committee

- A.5470, Tokasz; referred to Insurance Committee - would provide insurance coverage for up to 210 days of hospice care under the Healthy New York program for qualifying small businesses.

F. PUBLIC HEARINGS/ROUNDTABLES

Small business owners can provide valuable information to public policy discussions, hearings or roundtables. By having these forums, the Small Business Committee can focus its energy on legislation that will benefit the State as a whole.

An Examination of State and Local Procurement Practices

In conjunction with the Assembly Standing Committee on Governmental Operations, the Assembly Standing Committee on Cities, the Assembly Standing Committee on Higher Education and the Assembly Standing Committee on Local Governments, the Small Business Committee held a public hearing on February 26, 2008 to review local procurement practices regarding centralized contracts and the impact they have on State agencies, political subdivisions and small businesses.

Public procurement relies on competitive processes, set forth by Article 11 of the State Finance Law and Article 5-A of the General Municipal Law to obtain commodities, services and technology. The Office of General Services (OGS) administers a large centralized contracts program for acquisitions of commodities, services and technology by State agencies, local governments, the educational community and certain not-for-profit organizations. These contracts are based on the concept that the State can leverage its buying power to achieve cost savings and efficiency when the combined and common needs of State agencies meet the offerings of authorized users. The hearing reviewed the impact that these practices have on other entities, including small businesses.

V. OUTLOOK FOR 2009

The Small Business Committee is determined to address the future needs of small businesses, making New York a supportive environment for their growth. Issues of capital access, health insurance, small business taxation, export assistance, minority and women-owned business expansion and skilled workforce expansion, energy assistance, veterans' business assistance, regulatory reform and immigrant business assistance are priorities of the Committee. By understanding the needs of small businesses and how their interaction with State government may assist small business growth, we will be better able to make New York a place where small businesses will prosper.

Small businesses account for over 99% of businesses in New York State and employ 55% of the State's workforce. While small businesses are the backbone of the State's economy, Empire State Development Corporation allocates a disproportionately lesser percentage of its economic development budget to helping small businesses. Due to the impact on the workforce of New York, it is extremely important that small businesses and government work together to ensure that New York has a highly trained workforce. The Small Business Committee will continue to investigate ways to train skilled workers.

The current fiscal crisis only enhances the role that the Small Business Committee must play to ensure the State's small business community is not left behind. It is even more critical that we find new ways to provide support for small business expansion and provide more access to capital for new business start ups. This is a vital sector of our State's economy, and during this current economic crisis we must provide relief from unreasonable regulations and fees that will only add to the already struggling sector of the business community. Small business has always and will continue to be the backbone of New York State's economy, and addressing these issues will be the Committee's goal for this upcoming Legislative Session.

The Committee will also work to strengthen the ability of local communities to attract and increase small businesses, particularly in older downtown areas, business districts, and minority and immigrant communities.

In addition, the Committee is determined to connect New York's academic environment with the small business community. By providing ways for small businesses to increase their research and development capabilities, New York's economy will become one of the world's finest and most productive economies.

The Small Business Committee is eagerly awaiting the upcoming year with new ideas and new ambition. We are well on our way to ensuring prosperity for New York's small business sector.

APPENDIX A

2008 SUMMARY SHEET

**Summary of Action on All Bills
Referred to the Committee on**

SMALL BUSINESS

Final Action	Assembly Bills	Senate Bills	Total
Bills Reported With or Without Amendment			
To Floor: Not Returning to Committee	1	2	3
To Floor: Recommitted and Died	0	0	0
To Ways and Means	11	1	12
To Codes	0	0	0
To Rules	1	1	2
To Judiciary			
Total	13	4	17
Bills Defeated in Committee	0		0
Bills Never Reported, Held in Committee	2		2
Bills Never Reported, Died in Committee	6		6
Bills Having Enacting Clause Stricken	1		1
Motion to Discharge Lost	0		0
Total Bills in Committee	22	4	26
Total Number of Committee Meetings Held		5	

APPENDIX B

FINAL ACTION ON BILLS REPORTED BY THE SMALL BUSINESS COMMITTEE			
ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A.732 Christensen	S.314 Maziarz	Chapter 427	Requires DED and GORR to jointly prepare an annual summary of key legislative changes impacting the small business community.
A.1062 Destito	None	Passed Assembly	Establishes the Small Business Clean Environment Fund to assist small businesses in obtaining loans to buy pollution prevention equipment.
A.3276-A Towns	None	Referred to Ways and Means	Establishes the office for Small Business under the Executive Department; repeals the Division for Small Business under Economic Development Law.
A.4066 Lafayette	None	Referred to Ways and Means	Relates to the Excelsior Linked Deposit Program.
A.4099 Rivera P	None	Passed Assembly	Authorizes the Comptroller and the Commissioner of Taxation and Finance to make linked deposits with lenders to eligible businesses.
A.6149 Schimminger	None	Passed Assembly	Transfers oversight of the Small Business Innovation Research Program to NYSTAR and provides funding.
A.6713 Schimminger	S.3934 Parker	Passed Assembly	Creates a Small Business Technology Innovation program to meet the need for venture capital financing and provides a loan to the program from UDC.
A.7292-A Koon	S.3849-A Flanagan	Referred to Ways and Means	Establishes an enhanced statewide information and referral system call center.
A.7486 Destito	None	Referred to Ways and Means	Relates to financial assistance to small businesses for the purpose of environmental compliance.

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A.9459 Christensen	S.6501 Flanagan	Chapter 98	Authorizes regional economic development offices to provide assistance to small businesses regarding environmental compliance and pollution prevention.
A.9997 Weprin	S.7135 Alesi	Veto Memo #63	Creates the “New York Entrepreneur of the Year” Award.
A.10364 Schimminger	None	Passed Assembly	Creates a small business innovation matching grants program.
A.10981 Sweeney	S.7739 Skelos	Chapter 419	Increases from \$300,000 to \$950,000 the maximum amount of any small business loan certain joint ventures are allowed to make.
A.11032 Weprin	S.8293 Alesi	Passed Assembly	Creates Entrepreneurship Assistance Centers.