



H.R. 527—Small Business Regulatory Flexibility Improvements Act of 2015 (Chabot, R-OH)

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FLOOR SCHEDULE: [H.R. 527](#) IS EXPECTED TO BE CONSIDERED ON THE HOUSE FLOOR ON THURSDAY, JANUARY 4, 2015, UNDER A [STRUCTURED RULE](#). THE RULE MAKES IN ORDER [SIX AMENDMENTS](#), WHICH ARE SUMMARIZED BELOW.

TOPLINE SUMMARY: The bill would expand the Regulatory Flexibility Act (RFA), which requires regulatory agencies to account for the impact on small businesses in their rulemaking. The bill would require agencies to include the indirect impact of regulations on small businesses, not just the direct impact. The bill would also require agencies to have a small business advocacy panel to review major regulations.

CONSERVATIVE CONCERNS: Many conservatives support H.R. 527's goal of requiring regulatory agencies to consider reducing burdens on small businesses.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No, according to the [committee report](#).

DETAILED SUMMARY AND ANALYSIS: Similar language to H.R. 527 was included in [H.R. 4, the Jobs for America Act](#), which passed the House on September 18, 2014, by a [253-163](#) vote; as well as [H.R. 2804, the ALERRT Act of 2014](#), which passed the House on February 27, 2014, by a [236-179](#) vote.

H.R. 527 would amend the RFA to require regulatory agencies to better account for the impact of rules on small businesses. The bill would require federal agencies to prepare a regulatory flexibility analysis for a regulation the agency determines that it would have a “significant impact on a substantial number of small entities.” The term impact would be defined to include both direct and indirect effects, such as compliance costs and effects on revenue.

The bill would require the analysis to include alternatives to the proposed regulation that would minimize adverse impacts or to maximize beneficial impacts. The bill would expand the information that an agency must include in the regulatory flexibility analysis such as: (1) the reason why a rule is being considered; (2) the legal basis of the rule; (3) the estimated number of small entities that would be affected; (4) overlapping or

COST: The Congressional Budget Office (CBO) [estimates](#) that H.R. 527 would cost \$55 million over the 2015-2020 period.

CBO also estimates that H.R. 527 would increase the costs of existing mandates on private entities to pay fees assessed by certain agencies. However, in any given year, additional costs would fall below the \$154 million threshold under Unfunded Mandates Reform Act (UMRA).

duplicative regulations; (5) description of any disproportionate impact on small entities or specific classes of small entities; and (6) the impact on the access to credit for small entities.

The bill would require the Forest Service and the Bureau of Land Management to comply with the RFA when developing or modifying land management plans. The bill would require the Internal Revenue Service (IRS) to comply with the RFA for regulations that impose a recordkeeping requirement.

The bill would include small tribal organizations of less than 50,000 members in the definition of small entities. The legislation would exclude from the RFA regulations related to the rights and benefits of veterans or rules related to only one identifiable entity.

For major regulations that would have an annual effect on the economy of \$100 million or more, the bill would require all agencies to obtain input from small entities or representatives of small entities as well as the Small Business Administration (SBA) Office of Advocacy prior to publication in the Federal Register. The report issued by the review panel would include an assessment of the economic impact of the regulation on small entities and would become a part of the rulemaking record.

The bill would require the Chief Counsel for Advocacy of the SBA to issue regulations that govern compliance with RFA for other agencies. The bill would further require the GAO to issue a report to examine if the chief counsel has the capacity and resources to carry out these duties.

The bill would transfer the ability to determine size standards defining “small business” from the SBA Administrator to the SBA Chief Counsel for Advocacy for purposes other than the Small Business Act and the Small Business Investments Act of 1958. The bill would require the adoption of plans for agencies to periodically review regulations that have a significant impact on small entities.

Amendments:

- [Peters \(D-CA\) and Chabot \(R-OH\)](#): Would exempt rules pertaining to military service members and predatory lending from the RFA. The amendment also includes a few technical amendments.
- [Nadler \(D-NY\)](#): Would require analysis of indirect benefits to be explicitly reported in the regulatory analysis.
- [Conyers \(D-MI\)](#): Would strike the section of the bill that would require the Chief Counsel for Advocacy of the Small Business Administration (SBA) to issue regulations that govern compliance with RFA for other agencies (Section 5).
- [Schrader \(D-OR\)](#): Would strike the section of the bill that would transfer the ability to determine size standards defining “small business” from the SBA Administrator to the SBA Chief Counsel for Advocacy for purposes other than the Small Business Act and the Small Business Investments Act of 1958. (Section 10).
- [Johnson \(D-GA\)](#): Would exempt any regulation that the Office of Management and Budget (OMB) determines would result in net job creation.
- [Jackson-Lee \(D-TX\)](#): Would exempt all regulations from the Food and Drug Administration (FDA) relating to consumer safety.

OUTSIDE GROUPS:

- Please see a [coalition letter](#) signed by 159 trade organizations in support of the bill, including the American Farm Bureau Federation, the Food Marketing Institute, National Association of REALTORS, National Retail Federation, National Rural Electric Cooperative Association, and the U.S. Chamber of Commerce.
- [National Federation of Independent Business](#) (NFIB) supports the bill.

- The [Small Business & Entrepreneurship Council \(SBE Council\)](#) supports the bill.

COMMITTEE ACTION: H.R. 527 was introduced on January 26, 2015, and referred to the House Judiciary Committee as well as the House Small Business Committee. On January 27, 2015, the Judiciary Committee [marked up and reported](#) the bill by a 19-8 vote. The Committee Report can be found [here](#).

ADMINISTRATION POSITION: According to the [statement of administration policy](#), “if the President were presented with H.R. 527, his senior advisors would recommend that he veto the bill,” because in their opinion the bill “would impose unneeded and costly analytical and procedural requirements on agencies that would prevent them from performing their statutory responsibilities.”

CONSTITUTIONAL AUTHORITY: “Congress has the power to enact this legislation pursuant to the following: Article I, Section 1, Clause 1 of the United States Constitution, in that the legislation concerns the exercise of legislative powers generally granted to Congress by that section, including the exercise of those powers when delegated by Congress to the Executive; Article I, Section 8, Clauses 1 to 17, and Section 9, Clauses 1 to 2, 4, and 7, of the United States Constitution, in that the legislation concerns the exercise of specific legislative powers granted to Congress by those sections, including the exercise of those powers when delegated by Congress to the Executive; Article I, Section 8, Clause 18 of the United States Constitution, in that the legislation exercises legislative power granted to Congress by that clause “to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof;” Article III, Section 1, Clause 1, Sentence 1, Section 2, Clause 1, and Section 2, Clause 2, Sentence 2, of the United States Constitution, in that the legislation defines or affects judicial powers and cases that are subject to legislation by Congress; Article IV, Section 3, Clause 2 of the United States Constitution, in that the legislation concerns the exercise of power granted to Congress to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and, Amendment XVI to the United States Constitution, in that the legislation concerns the exercise of power granted to Congress to lay and collect income taxes, including determinations of the manner in which that power will be exercised.”

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