

5657

2013-2014 Regular Sessions

I N S E N A T E

May 31, 2013

Introduced by Sens. GALLIVAN, MARCHIONE, CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the state administrative procedure act, in relation to establishing a task force for the review of the state administrative procedure act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The state administrative procedure act is amended by adding
2 a new article 6 to read as follows:

3 ARTICLE 6

4 TASK FORCE FOR REVIEW OF THE STATE ADMINISTRATIVE PROCEDURE ACT
5 SECTION 601. LEGISLATIVE INTENT.

6 602. TASK FORCE FOR THE REVIEW OF THE STATE ADMINISTRATIVE
7 PROCEDURE ACT.

8 S 601. LEGISLATIVE INTENT. THE STATE ADMINISTRATIVE PROCEDURE ACT WAS
9 FIRST ENACTED IN NINETEEN HUNDRED SEVENTY-FIVE TO CREATE A UNIFORM,
10 CONSISTENT PROCESS TO ADMINISTRATIVE RULEMAKING, ADJUDICATION AND
11 LICENSING. SINCE NINETEEN HUNDRED SEVENTY-FIVE THIS ACT HAS BEEN AMENDED
12 NUMEROUS TIMES BUT THERE HAS NEVER BEEN A COMPREHENSIVE REVIEW OF THE
13 EFFICACY OF THE ACT IN ITS ENTIRETY. THE LEGISLATURE HEREBY FINDS AND
14 DECLARES THAT IT IS IN THE PUBLIC INTEREST TO HAVE SUCH A COMPREHENSIVE
15 REVIEW TO ENSURE THAT ADMINISTRATIVE RULEMAKING, ADJUDICATION AND
16 LICENSING IS CONSISTENT, UNIFORM, AND NOT UNNECESSARILY BURDENSOME FOR
17 REGULATED ENTITIES.

18 S 602. TASK FORCE FOR THE REVIEW OF THE STATE ADMINISTRATIVE PROCEDURE
19 ACT. 1. THERE SHALL BE ESTABLISHED A TASK FORCE FOR THE REVIEW OF THE
20 STATE ADMINISTRATIVE PROCEDURE ACT ("TASK FORCE"). SUCH TASK FORCE SHALL
21 EXAMINE, EVALUATE AND MAKE RECOMMENDATIONS CONCERNING THE EFFICIENCY OF
22 THE RULEMAKING PROCESS, WHETHER THIS ACT ENSURES THE ESTABLISHMENT OF
23 CONSISTENT, UNIFORM RULES AND WHETHER THE STATUTORY PROCESS RESULTS IN

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 RULES, REGULATIONS AND LICENSES THAT ARE OVERLY BURDENSOME ON REGULATED
2 ENTITIES.

3 2. THE TASK FORCE SHALL BE COMPOSED OF NINETEEN MEMBERS APPOINTED AS
4 FOLLOWS: NINE MEMBERS APPOINTED BY THE GOVERNOR, AT LEAST TWO OF WHOM
5 SHALL BE CHOSEN FROM AMONG THE COMMISSIONERS OF AGENCIES WITH SIGNIF-
6 ICANT REGULATORY OVERSIGHT; FOUR MEMBERS APPOINTED BY THE TEMPORARY
7 PRESIDENT OF THE SENATE, ONE OF WHOM SHALL BE THE SENATE CHAIRPERSON OF
8 THE ADMINISTRATIVE REGULATORY REVIEW COMMISSION; FOUR MEMBERS APPOINTED
9 BY THE SPEAKER OF THE ASSEMBLY, ONE OF WHICH SHALL BE THE ASSEMBLY
10 CHAIRPERSON OF THE ADMINISTRATIVE REGULATORY REVIEW COMMISSION; ONE
11 MEMBER APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND ONE MEMBER
12 APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY. THE GOVERNOR SHALL
13 DESIGNATE THE CHAIR OF THE TASK FORCE. ALL APPOINTED MEMBERS OF THE TASK
14 FORCE SHALL HAVE EXPERIENCE IN REGULATORY OR ADMINISTRATIVE LAW, OR
15 EXPERIENCE IN A FIELD REGULATED BY MULTIPLE STATE AGENCIES, OR A REPRE-
16 SENTATIVE OF ORGANIZED LABOR IN A REGULATED FIELD.

17 3. THE TASK FORCE SHALL HOLD PUBLIC HEARINGS THROUGHOUT THE STATE AND
18 SHALL HAVE THE POWERS OF A LEGISLATIVE COMMITTEE PURSUANT TO THE LEGIS-
19 LATIVE LAW. THE TASK FORCE SHALL CONSULT WITH MEMBERS OF THE SMALL
20 BUSINESS AND AGRICULTURAL COMMUNITIES AND REGULATED ENTITIES AND CITI-
21 ZENS FROM EVERY REGION OF THE STATE.

22 4. ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN, THE TASK
23 FORCE SHALL PROVIDE A WRITTEN REPORT TO THE GOVERNOR, THE TEMPORARY
24 PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEAD-
25 ER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, AND THE CHAIR-
26 PERSONS OF THE ADMINISTRATIVE REGULATORY REVIEW COMMISSION. THE REPORT
27 SHALL INCLUDE, BUT NOT BE LIMITED TO, RECOMMENDATIONS FOR SPECIFIC
28 AMENDMENTS TO THIS ACT AS WELL AS ANY ADDITIONAL RECOMMENDATIONS THE
29 TASK FORCE DEEMS RELEVANT. ANY RECOMMENDATIONS SHALL INCORPORATE THE
30 FOLLOWING PRINCIPLES: (A) AGENCIES SHOULD CONDUCT RISK ASSESSMENTS BASED
31 ON THE BEST-AVAILABLE DATA AND SCIENCE; (B) AGENCIES SHOULD ENSURE THAT
32 A FULL COST BENEFIT ANALYSIS IS UNDERTAKEN FOR MAJOR REGULATIONS; (C)
33 THE RULEMAKING PROCESS MUST INCLUDE AN OBJECTIVE, TRANSPARENT PEER AND
34 PUBLIC REVIEW; (D) REGULATIONS SHOULD BE SUBJECT TO LEGISLATIVE AND
35 JUDICIAL OVERSIGHT AND REVIEW; AND (E) AGENCIES SHOULD PRIORITIZE
36 COMPLIANCE OVER ENFORCEMENT.

37 5. THE MEMBERS OF THE TASK FORCE SHALL RECEIVE NO COMPENSATION FOR
38 THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES
39 INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

40 6. TO THE MAXIMUM EXTENT FEASIBLE, THE TASK FORCE SHALL BE ENTITLED TO
41 REQUEST AND RECEIVE AND SHALL UTILIZE AND BE PROVIDED WITH SUCH FACILI-
42 TIES, RESOURCES AND DATA OF ANY COURT, DEPARTMENT, DIVISION, BOARD,
43 BUREAU, COMMISSION, OR AGENCY OF THE STATE OR ANY POLITICAL SUBDIVISION
44 OR PUBLIC AUTHORITY THEREOF AS IT MAY REASONABLY REQUEST TO CARRY OUT
45 PROPERLY ITS POWERS AND DUTIES PURSUANT TO THIS SECTION.

46 S 2. This act shall take effect immediately.