

# STATE OF NEW YORK

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5155

2019-2020 Regular Sessions

## IN ASSEMBLY

February 7, 2019

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Introduced by M. of A. SCHIMMINGER, JONES, DiPIETRO -- read once and referred to the Committee on Labor

AN ACT directing the empire state development corporation to study a proposed rule of the department of labor prior to its adoption

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative intent. The legislature recognizes the impor-  
2 tance of the administrative rulemaking of agencies of state governments.  
3 The state administrative procedure act (SAPA) was enacted to ensure  
4 uniform and equitable practices to meet the public interest. SAPA  
5 provides for a job impact analysis by an agency to evaluate the poten-  
6 tial impact of a proposed rule on jobs and employment opportunities.  
7 SAPA also requires a regulatory impact statement and a regulatory flexi-  
8 bility analysis for small business, which includes a study of costs and  
9 economic impact.

10 § 2. Notwithstanding any law, rule or regulation to the contrary, the  
11 proposed rule contained in the November 22, 2017 State Register  
12 (LAB-47-17-00011-P) by the New York state department of labor, which  
13 would revise the call-in pay requirements of the minimum wage order for  
14 miscellaneous industries and occupations (12 NYCRR Part 142 at §§  
15 142-2.3 and 142-3.3) shall not be filed by the department of labor with  
16 the secretary of state and published in the state register until not  
17 less than 90 days after completion of a study providing additional eval-  
18 uation of the potential impact of the rule by the empire state develop-  
19 ment corporation as provided for in this act.

20 § 3. The empire state development corporation shall, in conjunction  
21 with a third party, undertake a study to provide additional evaluation  
22 on the additional impacts on jobs and employment opportunities, cost and  
23 the economic impact, particularly on small businesses, of the proposed  
24 rule referenced herein. Stakeholders impacted by this rule shall be  
25 contacted to obtain information. Upon completion, such study shall be

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

LBD03915-01-9

1 provided to the department of labor. Such study, including the addi-  
2 tional evaluation of the potential impacts, shall be considered a public  
3 comment for the purposes of article two of the state administrative  
4 procedure act and shall be analyzed and summarized in any assessment of  
5 public comments. The department of labor shall make every effort to  
6 minimize any impacts determined by the empire state development corpo-  
7 ration.

8 § 4. This act shall take effect immediately.