

S E N A T E - A S S E M B L Y

January 19, 2010

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the executive law and the state administrative procedure act, in relation to requirements for permit applications; and to amend the public officers law and the public authorities law, in relation to meetings of public bodies

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

1 Section 1. The executive law is amended by adding a new section 97-b
2 to read as follows:
3 S 97-B. AFFIRMATION IN LIEU OF OATH ON PERMIT APPLICATIONS; SIGNATURE
4 REQUIREMENT FOR ELECTRONIC PERMIT APPLICATIONS. 1. DEFINITIONS:
5 (A) "STATE AGENCY" SHALL MEAN ANY DEPARTMENT, BOARD, BUREAU, COMMIS-
6 SION, DIVISION, OFFICE, COUNCIL, COMMITTEE OR OFFICER OF THE STATE, OR A
7 PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHORITY, AT LEAST ONE OF WHOSE
8 MEMBERS IS APPOINTED BY THE GOVERNOR, AUTHORIZED BY LAW TO MAKE RULES OR
9 TO MAKE FINAL DECISIONS IN ADJUDICATORY PROCEEDINGS BUT SHALL NOT
10 INCLUDE THE GOVERNOR, AGENCIES IN THE LEGISLATIVE AND JUDICIAL BRANCHES,
11 AGENCIES CREATED BY INTERSTATE COMPACT OR INTERNATIONAL AGREEMENT, THE
12 DIVISION OF MILITARY AND NAVAL AFFAIRS TO THE EXTENT IT EXERCISES ITS
13 RESPONSIBILITY FOR MILITARY AND NAVAL AFFAIRS, THE DIVISION OF STATE
14 POLICE, THE IDENTIFICATION AND INTELLIGENCE UNIT OF THE DIVISION OF
15 CRIMINAL JUSTICE SERVICES, THE STATE INSURANCE FUND, THE UNEMPLOYMENT
16 INSURANCE APPEAL BOARD, THE STATE DIVISION OF PAROLE AND THE DEPARTMENT
17 OF CORRECTIONAL SERVICES;
18 (B) "APPLICANT" SHALL MEAN ANY PERSON WHO SUBMITS AN APPLICATION; AND
19 (C) "APPLICATION" SHALL MEAN A PAPER, FORM OR DOCUMENT PRODUCED BY OR
20 ON BEHALF OF A STATE AGENCY AND REQUIRED TO BE FILED BY A PERSON WITH A
21 STATE AGENCY, PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION FOR SUCH

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

1 STATE AGENCY, PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION TO DETER-
2 MINE WHETHER TO ISSUE, MODIFY OR RENEW A PERMIT, LICENSE, CERTIFICATE,
3 APPROVAL, REGISTRATION, CHARTER, OR SIMILAR FORM OF PERMISSION OR
4 AUTHORITY REQUIRED BY LAW OR BY STATE AGENCY RULES HAVING THE FORCE AND
5 EFFECT OF LAW, WHICH IS REQUIRED FOR A BUSINESS UNDERTAKING, PROJECT OR
6 ACTIVITY FOR AN APPLICANT, BUT SHALL NOT INCLUDE BONDS OR OTHER FORMS OF
7 SECURITY REQUIRED TO BE SUBMITTED BY APPLICANTS, OR ANY INDIVIDUAL
8 LICENSES FOR PRACTICING A PROFESSION PRESCRIBED IN TITLE EIGHT OF THE
9 EDUCATION LAW, FILINGS UNDER THE UNIFORM COMMERCIAL CODE, ROUTINE
10 LICENSES AND PERMITS FOR INDIVIDUAL PRIVILEGES, INCLUDING LICENSES FOR
11 OPERATING A MOTOR VEHICLE AND AMATEUR SPORTING LICENSES, SUCH AS FOR
12 HUNTING AND FISHING, OR BUILDING PERMIT ISSUED BY A CITY, TOWN OR
13 VILLAGE.

14 2. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ANY STATE
15 AGENCY MAY, BY PROMULGATION OF REGULATIONS IN ACCORDANCE WITH THE STATE
16 ADMINISTRATIVE PROCEDURE ACT, PERMIT ANY APPLICATION TO BE FILED WITH
17 SUCH AGENCY, IN LIEU OF BEING ACKNOWLEDGED, VERIFIED, OR SWORN UNDER
18 OATH WHERE SUCH IS REQUIRED BY STATUTE, TO BE SUBSCRIBED BY THE APPLI-
19 CANT AND AFFIRMED BY HIM OR HER AS TRUE AND COMPLETE UNDER PENALTY OF
20 PERJURY.

21 3. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ANY STATE
22 AGENCY MAY, BY PROMULGATION OF REGULATIONS IN ACCORDANCE WITH THE STATE
23 ADMINISTRATIVE PROCEDURE ACT, PERMIT ANY APPLICATION TO BE SUBMITTED:

24 (A) BY ELECTRONIC MEANS, PROVIDED THAT A SIGNATURE IS REQUIRED THEREON
25 THAT MEETS THE REQUIREMENTS OF SUBDIVISION THREE OF SECTION THREE
26 HUNDRED TWO OF THE STATE TECHNOLOGY LAW, AND THE USE OF ELECTRONIC
27 RECORDS SHALL MEET THE REQUIREMENTS OF SUBDIVISION ONE OF SECTION THREE
28 HUNDRED FIVE OF THE STATE TECHNOLOGY LAW; AND

29 (B) SUBSCRIBED BY THE APPLICANT AND AFFIRMED BY HIM OR HER AS TRUE
30 UNDER PENALTY OF PERJURY, IN LIEU OF ANY REQUIREMENT THAT THE APPLICA-
31 TION BE ACKNOWLEDGED OR SWORN TO UNDER OATH.

32 S 2. Subdivision 6 of section 201-a of the state administrative proce-
33 dure act is renumbered subdivision 7 and a new subdivision 6 is added to
34 read as follows:

35 6. TO REDUCE PAPERWORK FOR AGENCIES, IN LIEU OF PREPARING A SEPARATE
36 STATEMENT, AN AGENCY MAY COMPLY WITH THE REQUIREMENTS OF THIS SECTION BY
37 INCLUDING WITHIN THE REGULATORY IMPACT STATEMENT PREPARED PURSUANT TO
38 SECTION TWO HUNDRED TWO-A OF THIS ARTICLE ALL OF THE ELEMENTS OF THE JOB
39 IMPACT STATEMENT.

40 S 3. Subparagraph (vii) of paragraph (f) of subdivision 1 of section
41 202 of the state administrative procedure act, as amended by chapter 171
42 of the laws of 1994, is amended to read as follows:

43 (vii) include a regulatory flexibility analysis [and], a rural area
44 flexibility analysis AND A JOB IMPACT STATEMENT prepared pursuant to
45 sections TWO HUNDRED ONE-A, two hundred two-b, and two hundred two-bb of
46 this [chapter] ARTICLE, provided, however, if an analysis exceeds two
47 thousand words, the notice shall include only a summary of such analysis
48 in less than two thousand words. AN AGENCY MAY DISPENSE WITH THE
49 REQUIREMENTS OF THIS SUBPARAGRAPH BY PREPARING A REGULATORY IMPACT
50 STATEMENT AS REFERENCED IN SUBPARAGRAPH (VI) OF THIS PARAGRAPH THAT
51 INCLUDES ALL OF THE ELEMENTS OF THE REGULATORY FLEXIBILITY ANALYSIS FOR
52 SMALL BUSINESSES AND LOCAL GOVERNMENTS, RURAL AREA FLEXIBILITY ANALYSIS
53 AND JOB IMPACT STATEMENT. PROVIDED, HOWEVER, WHEN AN AGENCY PREPARES A
54 COMBINED REGULATORY IMPACT STATEMENT AND SUCH STATEMENT EXCEEDS FOUR
55 THOUSAND WORDS, THE NOTICE SHALL INCLUDE ONLY A SUMMARY OF SUCH STATE-
56 MENT IN LESS THAN FOUR THOUSAND WORDS;

1 S 4. Paragraphs (a) and (b) of subdivision 4 of section 202-a of the
2 state administrative procedure act, as amended by chapter 698 of the
3 laws of 1984, are amended and a new paragraph (c) is added to read as
4 follows:

5 (a) Consider a series of closely related and simultaneously proposed
6 rules as one rule for the purpose of submitting a consolidated regulatory
7 impact statement; [and]

8 (b) Submit a consolidated regulatory impact statement for any series
9 of virtually identical rules proposed in the same year[.]; AND

10 (C) PREPARE A COMBINED REGULATORY IMPACT STATEMENT THAT INCLUDES ALL
11 OF THE ELEMENTS REQUIRED BY SUBDIVISION THREE OF THIS SECTION, SECTION
12 TWO HUNDRED ONE-A OF THIS ARTICLE RELATED TO THE JOB IMPACT ANALYSIS,
13 SECTION TWO HUNDRED TWO-B OF THIS ARTICLE RELATED TO THE REGULATORY
14 FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES AND LOCAL GOVERNMENTS, AND
15 SECTION TWO HUNDRED TWO-BB OF THIS ARTICLE RELATED TO RURAL AREA FLEXI-
16 BILITY ANALYSIS.

17 S 5. Subdivision 4 of section 202-b of the state administrative proce-
18 dure act, as amended by chapter 17 of the laws of 1984, is amended to
19 read as follows:

20 4. In order to avoid duplicative action, an agency may (A) consider a
21 series of closely related rules as one rule for the purpose of complying
22 with subdivision two of this section; AND (B) IN LIEU OF PREPARING A
23 SEPARATE STATEMENT, INCLUDE WITHIN THE REGULATORY IMPACT STATEMENT,
24 PREPARED PURSUANT TO SECTION TWO HUNDRED TWO-A OF THIS ARTICLE, ALL OF
25 THE ELEMENTS OF THE REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES
26 AND LOCAL GOVERNMENTS.

27 S 6. Subdivision 5 of section 202-bb of the state administrative
28 procedure act, as added by chapter 171 of the laws of 1994, is amended
29 to read as follows:

30 5. In order to avoid duplicative action, an agency may (A) consider a
31 series of closely related rules as one rule for the purpose of complying
32 with subdivision three of this section; AND (B) IN LIEU OF PREPARING A
33 SEPARATE STATEMENT, INCLUDE WITHIN THE REGULATORY IMPACT STATEMENT,
34 PREPARED PURSUANT TO SECTION TWO HUNDRED TWO-A OF THIS ARTICLE, ALL OF
35 THE ELEMENTS OF THE RURAL AREA FLEXIBILITY ANALYSIS.

36 S 7. Subdivision 7 of section 837 of the executive law, as added by
37 chapter 399 of the laws of 1972 and such section as renumbered by chap-
38 ter 603 of the laws of 1973, is amended to read as follows:

39 7. Receive, process and file fingerprints, photographs and other
40 descriptive data for the purpose of establishing identity and previous
41 criminal record. WHENEVER ANY PROVISION OF LAW REQUIRES OR PERMITS THE
42 SUBMISSION, TRANSMISSION, FORWARDING, RETENTION, RETURN OR DESTRUCTION
43 THEREOF, THE TERMS "CRIMINAL RECORD", "CRIMINAL HISTORY RECORD", "FING-
44 ERPRINTS", "FINGERPRINT CARDS", "PHOTOGRAPHS", "PALMPRINTS", "PERSONAL
45 APPEARANCE DATA", "HANDWRITING SAMPLES", AND "DESCRIPTIVE DATA" SHALL
46 MEAN AND INCLUDE DIGITAL OR ELECTRONIC IMAGES, IMPRESSIONS, REPRESENTA-
47 TIONS OR REPRODUCTIONS OF SUCH CRIMINAL RECORD, CRIMINAL HISTORY RECORD,
48 FINGERPRINTS, FINGERPRINT CARDS, PHOTOGRAPHS, PALMPRINTS, PERSONAL
49 APPEARANCE DATA, HANDWRITING SAMPLES AND DESCRIPTIVE DATA;

50 S 8. The public officers law is amended by adding a new section 108-a
51 to read as follows:

52 S 108-A. ATTENDANCE AT MEETINGS BY PUBLIC BODIES. PARTICIPATION AT A
53 MEETING OF A PUBLIC BODY, A MAJORITY OF WHOSE MEMBERS ARE APPOINTED BY
54 STATE AGENCIES, AS SUCH TERM IS DEFINED IN SECTION NINETY-SEVEN-B OF THE
55 EXECUTIVE LAW, MAY TAKE PLACE BY CONFERENCE TELEPHONE OR OTHER SIMILAR
56 COMMUNICATIONS EQUIPMENT ALLOWING ALL PERSONS PARTICIPATING IN THE MEET-

1 ING TO HEAR EACH OTHER AT THE SAME TIME, PROVIDED THAT SUCH PARTIC-
2 IPATION IS PERMITTED BY A VOTE OF A MAJORITY OF THE MEMBERS OF SUCH
3 PUBLIC BODY, OR SUCH PUBLIC BODY OTHERWISE COMPLIES WITH ALL OTHER
4 PROVISIONS OF THIS ARTICLE.

5 S 9. The public authorities law is amended by adding a new section
6 2829 to read as follows:

7 S 2829. ATTENDANCE AT MEETINGS BY PUBLIC BODIES. NOTWITHSTANDING ANY
8 OTHER PROVISION OF LAW TO THE CONTRARY, ANY ONE OR MORE DIRECTORS OR
9 BOARD MEMBERS OF ANY AUTHORITY MAY PARTICIPATE IN ANY MEETING BY MEANS
10 OF A CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT ALLOWING
11 ALL PERSONS PARTICIPATING IN THE MEETING TO HEAR EACH OTHER AT THE SAME
12 TIME AND THE MEETING OTHERWISE COMPLIES WITH ARTICLE SEVEN OF THE PUBLIC
13 OFFICERS LAW (OPEN MEETINGS LAW). PARTICIPATION BY SUCH MEANS SHALL
14 CONSTITUTE PRESENCE IN PERSON AT A MEETING.

15 S 10. This act shall take effect immediately.