

S T A T E O F N E W Y O R K

S. 6614--A

A. 9714--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

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

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

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

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

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

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

43 S 3. Subparagraph (vii) of paragraph (f) of subdivision 1 of section
44 202 of the state administrative procedure act, as amended by chapter 171
45 of the laws of 1994, is amended to read as follows:

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

1 COMBINED REGULATORY IMPACT STATEMENT AND SUCH STATEMENT EXCEEDS FOUR
2 THOUSAND WORDS, THE NOTICE SHALL INCLUDE ONLY A SUMMARY OF SUCH STATE-
3 MENT IN LESS THAN FOUR THOUSAND WORDS;

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

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

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

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

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

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

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

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

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

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

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

55 S 108-A. ATTENDANCE AT MEETINGS BY PUBLIC BODIES. PARTICIPATION AT A
56 MEETING OF A PUBLIC BODY, A MAJORITY OF WHOSE MEMBERS ARE APPOINTED BY

1 STATE AGENCIES OR THE GOVERNOR MAY TAKE PLACE BY CONFERENCE TELEPHONE OR
2 OTHER SIMILAR COMMUNICATIONS EQUIPMENT ALLOWING ALL PERSONS PARTICIPAT-
3 ING IN THE MEETING TO HEAR EACH OTHER AT THE SAME TIME, PROVIDED THAT:
4 (A) SUCH PARTICIPATION IS PERMITTED BY A VOTE OF A MAJORITY OF THE
5 MEMBERS OF SUCH PUBLIC BODY;

6 (B) THE MEETING OTHERWISE COMPLIES WITH ALL OTHER REQUIREMENTS OF THIS
7 ARTICLE;

8 (C) EITHER (1) PARTICIPATION BY MEANS OF A MEMBER'S PHYSICAL PRESENCE
9 AT A MEETING CANNOT REASONABLY OCCUR DUE TO INCLEMENT WEATHER, MEDICAL
10 CONDITION OR DISABILITY, OR LACK OF AVAILABILITY OF VIDEOCONFERENCING
11 CAPABILITY; OR (2) THE MEMBER RESIDES FIFTY OR MORE MILES AWAY, OR SUCH
12 DISTANCE AS WILL REQUIRE OVER ONE HOUR OF TRAVEL, AND THE PUBLIC BODY
13 PROVIDES AN OPPORTUNITY FOR THE PUBLIC TO ATTEND, LISTEN AND OBSERVE AT
14 ANY SITE AT WHICH A MEMBER PARTICIPATES; AND

15 (D) THE MEMBER PARTICIPATING BY PHONE IS CLEARLY AUDIBLE TO THOSE IN
16 ATTENDANCE AT A MEETING AND IDENTIFIES HIMSELF OR HERSELF BEFORE SPEAK-
17 ING.

18 S 9. The public authorities law is amended by adding a new section
19 2829 to read as follows:

20 S 2829. ATTENDANCE AT MEETINGS BY PUBLIC BODIES. NOTWITHSTANDING ANY
21 OTHER PROVISION OF LAW TO THE CONTRARY, ANY ONE OR MORE DIRECTORS OR
22 BOARD MEMBERS OF ANY STATE AUTHORITY MAY PARTICIPATE IN ANY MEETING BY
23 MEANS OF A CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT
24 ALLOWING ALL PERSONS PARTICIPATING IN THE MEETING TO HEAR EACH OTHER AT
25 THE SAME TIME PROVIDED THAT: (A) THE MEETING OTHERWISE COMPLIES WITH
26 ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW (OPEN MEETINGS LAW);

27 (B) EITHER (1) PARTICIPATION BY MEANS OF A MEMBER'S PHYSICAL PRESENCE
28 AT A MEETING CANNOT REASONABLY OCCUR DUE TO INCLEMENT WEATHER, MEDIAL
29 CONDITION OR DISABILITY, OR LACK OF AVAILABILITY OF VIDEOCONFERENCING
30 CAPABILITY; OR (2) THE MEMBER RESIDES FIFTY OR MILES AWAY, OR SUCH
31 DISTANCE AS WILL REQUIRE OVER ONE HOUR OF TRAVEL AND THE PUBLIC BODY
32 PROVIDES AN OPPORTUNITY FOR THE PUBLIC TO ATTEND, LISTEN AND OBSERVE AT
33 ANY SITE AT WHICH A MEMBER PARTICIPATES; AND

34 (C) THE MEMBER PARTICIPATING BY PHONE IS CLEARLY AUDIBLE TO THOSE IN
35 ATTENDANCE AT A MEETING AND IDENTIFIES HIMSELF OR HERSELF BEFORE SPEAK-
36 ING. PARTICIPATION BY SUCH MEANS SHALL CONSTITUTE PRESENCE IN PERSON AT
37 A MEETING.

38 S 10. This act shall take effect immediately.