

3943

2011-2012 Regular Sessions

I N S E N A T E

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Introduced by Sens. MAZIARZ, BONACIC, GRIFFO, RANZENHOFER, SEWARD --
read twice and ordered printed, and when printed to be committed to
the Committee on Finance

AN ACT to amend the executive law, in relation to regulatory flexibility
and review of rules

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

1 Section 1. Section 104 of the executive law is amended to read as
2 follows:
3 S 104. Departmental cooperation ON RULEMAKING, INCREASING REGULATORY
4 FLEXIBILITY AND REDUCING REGULATORY BURDENS. 1. IT IS DECLARED TO BE
5 THE POLICY OF THIS STATE TO PROTECT AND ENCOURAGE JOBS, INVESTMENT AND
6 ECONOMIC ACTIVITY AND TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE
7 BY ADMINISTERING ALL REGULATORY REQUIREMENTS IMPOSED BY THE STATE IN A
8 FAIR AND REASONABLE MANNER DESIGNED TO AVOID UNDUE DELETERIOUS ECONOMIC
9 EFFECTS OR OVERLY BURDENSOME IMPACTS OF RULES UPON PERSONS AND THE ECON-
10 OMY.
11 2. The secretary of state may advise with the several departments,
12 boards, bureaus, officers, authorities, commissions and other agencies
13 of the state which are authorized by statute to issue codes, rules or
14 regulations, to the end that the same may, so far as possible, be
15 uniform in style and form, be properly numbered and captioned and be
16 free from matter which is obsolete.
17 3. THE SECRETARY OF STATE SHALL PROVIDE OVERSIGHT OVER THE REGULATORY
18 PROCESSES OF STATE AGENCIES, PUBLIC AUTHORITIES, AND COMMISSIONS THROUGH
19 THE REVIEW, ANALYSIS, AND REVISION OF PROPOSED AND EXISTING RULES IN A
20 MANNER THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING ACTIONS:
21 A. ENSURING THAT REGULATIONS FAITHFULLY EXECUTE THE LAWS OF THE STATE
22 WITHOUT UNDULY BURDENING THE STATE'S ECONOMY AND REGULATED PARTIES AND
23 WITHOUT IMPOSING DELETERIOUS COSTS AND REQUIREMENTS ON THE BUSINESSES,
24 LOCAL GOVERNMENTS AND CITIZENS OF THIS STATE;

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

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1 B. CONDUCTING AN ASSESSMENT OR REQUIRING THE ASSESSMENT OF THE CUMULA-
2 TIVE IMPACT OF RULES ON THE STATE'S POLICIES, PROGRAMS AND REGULATIONS
3 IN THE AREAS OF ENERGY, ECONOMIC DEVELOPMENT, AND THE ENVIRONMENT;

4 C. CONDUCTING AN ASSESSMENT OR REQUIRING THE ASSESSMENT OF THE CUMULA-
5 TIVE IMPACT OF THE STATE'S ENVIRONMENTAL POLICES, PROGRAMS, AND REGU-
6 LATIONS ON THE STATE'S ECONOMIC DEVELOPMENT AND ON THE IMPLEMENTATION OF
7 THE STATE'S ENERGY POLICES, PROGRAMS AND REGULATIONS;

8 D. REQUIRING THE PREPARATION OF A COST-BENEFIT ANALYSIS, A RISK
9 ASSESSMENT, AND AN ANALYSIS OF THE EFFECT OF RULES ON THE CREATION AND
10 RETENTION OF JOBS IN THE STATE;

11 E. ISSUING OR REQUIRING THE ISSUANCE OF A REGULATORY FLEXIBILITY ANAL-
12 YSIS AND ASSESSMENT OF THE ECONOMIC AND TECHNOLOGICAL FEASIBILITY OF
13 COMPLIANCE WITH RULES, AS WELL AS AN EVALUATION TO THE FULLEST EXTENT
14 POSSIBLE OF THE FISCAL IMPACT OF RULES THAT IMPOSE A MANDATE;

15 F. PRESCRIBING METHODOLOGIES OR REQUIREMENTS THAT ALLOW REGULATED
16 PARTIES FLEXIBILITY AND THAT ENCOURAGE INNOVATION IN MEETING THE LEGIS-
17 LATIVE OR ADMINISTRATIVE REQUIREMENTS AND OBJECTIVES UNDERLYING RULES;

18 G. GIVING PREFERENCE TO THE LEAST COSTLY AND LEAST BURDENSOME REGULA-
19 TORY AND PAPERWORK REQUIREMENTS NEEDED TO ACCOMPLISH THE LEGISLATIVE AND
20 ADMINISTRATIVE OBJECTIVES UNDERLYING THE RULES;

21 H. FAVORING MARKET-ORIENTED SOLUTIONS AND PERFORMANCE STANDARDS OVER A
22 COMMAND-AND-CONTROL APPROACH TO IMPLEMENTING REGULATIONS; AND

23 I. CONVENING A NEGOTIATED RULEMAKING, WHEREIN INTERESTED PARTIES AND
24 THE INVOLVED AGENCY, PUBLIC AUTHORITY, OR COMMISSION, WITH THE ASSIST-
25 ANCE OF A NEUTRAL FACILITATOR, NEGOTIATE TO REACH CONSENSUS ON THE TERMS
26 OF RULES.

27 4. THE SECRETARY OF STATE ANNUALLY SHALL PUBLISH ON ITS WEBSITE AND
28 SUBMIT TO THE GOVERNOR, THE DIRECTOR OF STATE OPERATIONS, THE DIRECTOR
29 OF THE DIVISION OF THE BUDGET, INVOLVED STATE AGENCIES, PUBLIC AUTHORI-
30 TIES, AND/OR COMMISSIONS, THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
31 PRESIDENT OF THE SENATE A REPORT WITH RECOMMENDATIONS, REGARDING:

32 A. THE AMENDMENT OR REPEAL OF ANY EXISTING RULE WHICH MAY BE (I) OBSO-
33 LETE, (II) HARMFUL TO THE ECONOMY OR JOB GROWTH IN THE STATE, (III)
34 EXCESSIVE IN VIEW OF STATE OR FEDERAL STATUTES AND REGULATIONS, (IV)
35 ECONOMICALLY AND/OR TECHNOLOGICALLY INFEASIBLE, AND/OR (V) A THREAT TO
36 THE RELIABILITY OF THE ENERGY SYSTEM; AND

37 B. THE SIMPLIFICATION OF REGULATIONS AND THE REGULATORY PROCESSES.

38 5. EACH STATE AGENCY, PUBLIC AUTHORITY, OR COMMISSION, WHICH IS THE
39 SUBJECT OF THE ANNUAL REPORT REQUIRED BY SUBDIVISION FOUR OF THIS
40 SECTION, SHALL PROPOSE REGULATIONS OR REVISIONS TO ITS RULES AND POLI-
41 CIES TO INCORPORATE THE FINDINGS AND RECOMMENDATIONS OF THE REPORT
42 REQUIRED BY SUCH SUBDIVISION.

43 S 2. This act shall take effect immediately.