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

3943

2011-2012 Regular Sessions

I N S E N A T E

March 10, 2011

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 104 of the executive law is amended to read as follows:

S 104. Departmental cooperation ON RULEMAKING, INCREASING REGULATORY FLEXIBILITY AND REDUCING REGULATORY BURDENS. 1. IT IS DECLARED TO BE THE POLICY OF THIS STATE TO PROTECT AND ENCOURAGE JOBS, INVESTMENT AND ECONOMIC ACTIVITY AND TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE BY ADMINISTERING ALL REGULATORY REQUIREMENTS IMPOSED BY THE STATE IN A FAIR AND REASONABLE MANNER DESIGNED TO AVOID UNDUE DELETERIOUS ECONOMIC EFFECTS OR OVERLY BURDENSOME IMPACTS OF RULES UPON PERSONS AND THE ECONOMY.

2. The secretary of state may advise with the several departments, boards, bureaus, officers, authorities, commissions and other agencies of the state which are authorized by statute to issue codes, rules or regulations, to the end that the same may, so far as possible, be uniform in style and form, be properly numbered and captioned and be free from matter which is obsolete.

3. THE SECRETARY OF STATE SHALL PROVIDE OVERSIGHT OVER THE REGULATORY PROCESSES OF STATE AGENCIES, PUBLIC AUTHORITIES, AND COMMISSIONS THROUGH THE REVIEW, ANALYSIS, AND REVISION OF PROPOSED AND EXISTING RULES IN A MANNER THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING ACTIONS:

A. ENSURING THAT REGULATIONS FAITHFULLY EXECUTE THE LAWS OF THE STATE WITHOUT UNDULY BURDENING THE STATE'S ECONOMY AND REGULATED PARTIES AND WITHOUT IMPOSING DELETERIOUS COSTS AND REQUIREMENTS ON THE BUSINESSES, 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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B. CONDUCTING AN ASSESSMENT OR REQUIRING THE ASSESSMENT OF THE CUMULATIVE IMPACT OF RULES ON THE STATE'S POLICIES, PROGRAMS AND REGULATIONS IN THE AREAS OF ENERGY, ECONOMIC DEVELOPMENT, AND THE ENVIRONMENT;

C. CONDUCTING AN ASSESSMENT OR REQUIRING THE ASSESSMENT OF THE CUMULATIVE IMPACT OF THE STATE'S ENVIRONMENTAL POLICES, PROGRAMS, AND REGULATIONS ON THE STATE'S ECONOMIC DEVELOPMENT AND ON THE IMPLEMENTATION OF THE STATE'S ENERGY POLICES, PROGRAMS AND REGULATIONS;

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

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

F. PRESCRIBING METHODOLOGIES OR REQUIREMENTS THAT ALLOW REGULATED PARTIES FLEXIBILITY AND THAT ENCOURAGE INNOVATION IN MEETING THE LEGISLATIVE OR ADMINISTRATIVE REQUIREMENTS AND OBJECTIVES UNDERLYING RULES;

G. GIVING PREFERENCE TO THE LEAST COSTLY AND LEAST BURDENSOME REGULATORY AND PAPERWORK REQUIREMENTS NEEDED TO ACCOMPLISH THE LEGISLATIVE AND ADMINISTRATIVE OBJECTIVES UNDERLYING THE RULES;

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

I. CONVENING A NEGOTIATED RULEMAKING, WHEREIN INTERESTED PARTIES AND THE INVOLVED AGENCY, PUBLIC AUTHORITY, OR COMMISSION, WITH THE ASSISTANCE OF A NEUTRAL FACILITATOR, NEGOTIATE TO REACH CONSENSUS ON THE TERMS OF RULES.

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

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

B. THE SIMPLIFICATION OF REGULATIONS AND THE REGULATORY PROCESSES.

5. EACH STATE AGENCY, PUBLIC AUTHORITY, OR COMMISSION, WHICH IS THE SUBJECT OF THE ANNUAL REPORT REQUIRED BY SUBDIVISION FOUR OF THIS SECTION, SHALL PROPOSE REGULATIONS OR REVISIONS TO ITS RULES AND POLICIES TO INCORPORATE THE FINDINGS AND RECOMMENDATIONS OF THE REPORT REQUIRED BY SUCH SUBDIVISION.

S 2. This act shall take effect immediately.