

10419

I N A S S E M B L Y

May 29, 2012

Introduced by M. of A. KOLB -- read once and referred to the Committee
on Governmental Operations

AN ACT to amend the executive law, the state administrative procedure
act and the legislative law, in relation to the division of regulatory
review and economic growth

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

1 Section 1. The executive law is amended by adding a new article 51 to
2 read as follows:

3 ARTICLE 51

4 DIVISION OF REGULATORY REVIEW AND ECONOMIC GROWTH

5 SECTION 1010. DEFINITIONS.

6 1011. DIVISION OF REGULATORY REVIEW AND ECONOMIC GROWTH.

7 1012. GENERAL FUNCTIONS, POWERS AND DUTIES.

8 1013. ASSISTANCE OF OTHER STATE AGENCIES.

9 1014. REGULATION REVIEW.

10 1015. DIVISION ANNUAL RECOMMENDATIONS.

11 1016. IMPLEMENTATION OF RECOMMENDATIONS.

12 1017. COST OF REGULATION STUDY.

13 S 1010. DEFINITIONS. WHEN USED IN THIS ARTICLE, THE FOLLOWING TERMS
14 SHALL HAVE THE FOLLOWING MEANINGS:

15 1. "COMMISSIONER" MEANS THE COMMISSIONER OF THE DIVISION OF REGULATORY
16 REVIEW AND ECONOMIC GROWTH.

17 2. "DIVISION" MEANS THE DIVISION OF REGULATORY REVIEW AND ECONOMIC
18 GROWTH CREATED BY THIS ARTICLE.

19 3. "PERMIT" SHALL MEAN THE WHOLE OR PART OF ANY STATE AGENCY PERMIT,
20 LICENSE, CERTIFICATE, APPROVAL, REGISTRATION, CHARTER, OR SIMILAR FORM
21 OF PERMISSION OR AUTHORITY REQUIRED BY LAW OR BY STATE AGENCY RULE
22 HAVING THE FORCE AND EFFECT OF LAW, WHICH IS REQUIRED FOR A BUSINESS
23 UNDERTAKING, PROJECT OR ACTIVITY; PROVIDED, HOWEVER, IT SHALL NOT MEAN
24 INDIVIDUAL LICENSES FOR PRACTICING A PROFESSION PRESCRIBED IN TITLE
25 EIGHT OF THE EDUCATION LAW, FILINGS UNDER THE UNIFORM COMMERCIAL CODE,
26 OR ROUTINE LICENSES AND PERMITS FOR INDIVIDUAL PRIVILEGES, INCLUDING

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

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1 LICENSES FOR OPERATING A MOTOR VEHICLE AND AMATEUR SPORTING LICENSES,
2 SUCH AS FOR HUNTING AND FISHING.
3 4. "RULE" MEANS A RULE AS DEFINED IN SUBPARAGRAPH (I) OF PARAGRAPH (A)
4 OF SUBDIVISION TWO OF SECTION ONE HUNDRED TWO OF THE STATE ADMINISTRA-
5 TIVE PROCEDURE ACT, INCLUDING RULES OF THE WORKERS' COMPENSATION BOARD,
6 BUT DOES NOT INCLUDE THE RULES OF THE STATE COMPTROLLER OR ATTORNEY
7 GENERAL, RULES REGARDING JURISDICTIONAL CLASSIFICATIONS PURSUANT TO
8 SUBDIVISION ONE OF SECTION SIX OF THE CIVIL SERVICE LAW, AND THE ALTER-
9 ATION OF HUNTING OR FISHING SEASONS PURSUANT TO ARTICLE ELEVEN OF THE
10 ENVIRONMENTAL CONSERVATION LAW.

11 5. "STATE AGENCY" MEANS AN AGENCY AS DEFINED IN SUBDIVISION ONE OF
12 SECTION ONE HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

13 S 1011. DIVISION OF REGULATORY REVIEW AND ECONOMIC GROWTH. 1. THERE
14 IS HEREBY CREATED IN THE EXECUTIVE DEPARTMENT THE DIVISION OF REGULATORY
15 REVIEW AND ECONOMIC GROWTH. THE HEAD OF THE DIVISION SHALL BE THE
16 COMMISSIONER OF THE DIVISION WHO SHALL BE APPOINTED BY THE GOVERNOR WITH
17 THE CONSENT OF THE SENATE AND SERVE A TERM OF FIVE YEARS.

18 2. THE COMMISSIONER MUST HAVE AT LEAST TEN YEARS OF EXPERIENCE RUNNING
19 A FOR-PROFIT BUSINESS, WITH AT LEAST THREE YEARS EXPERIENCE AS THE CHIEF
20 EXECUTIVE OFFICER, CHIEF OPERATING OFFICER, CHIEF FINANCIAL OFFICER,
21 PRESIDENT, OWNER, OR ANY OTHER TITLE USED FOR THE HIGHEST RANKING OFFI-
22 CER, ADMINISTRATOR OR MANAGER OF A FOR-PROFIT BUSINESS.

23 3. THE COMMISSIONER SHALL BE APPOINTED BY THE GOVERNOR WITHIN THIRTY
24 DAYS OF THE EFFECTIVE DATE OF THIS SECTION AND WITHIN THIRTY DAYS OF THE
25 EXPIRATION OF EVERY FIVE YEAR TERM THEREAFTER, AND UPON CONFIRMATION OF
26 THE SENATE SHALL SERVE A TERM OF FIVE YEARS EFFECTIVE FROM THE DATE OF
27 CONFIRMATION. IF THE SENATE REJECTS AN APPOINTMENT, THE GOVERNOR SHALL
28 HAVE THIRTY DAYS FROM THE DATE OF THE REJECTION TO APPOINT ANOTHER
29 COMMISSIONER.

30 4. THE COMMISSIONER MAY ONLY BE REMOVED FROM OFFICE BY A FELONY
31 CONVICTION OR A CRIME INVOLVING A VIOLATION OF HIS OR HER OATH OF OFFICE
32 OR BY THE ASSENT OF TWO-THIRDS OF THE MEMBERS ELECTED TO EACH BRANCH OF
33 THE LEGISLATURE VOTING SEPARATELY.

34 5. SUCH COMMISSIONER SHALL RECEIVE AN ANNUAL SALARY TO BE FIXED BY THE
35 GOVERNOR WITHIN THE AMOUNT MADE AVAILABLE THEREFOR BY APPROPRIATION AND
36 SHALL BE ALLOWED HIS OR HER ACTUAL AND NECESSARY EXPENSES IN THE
37 PERFORMANCE OF HIS OR HER DUTIES.

38 6. UPON APPOINTMENT AND UNTIL SUCH TERM EXPIRES, THE COMMISSIONER
39 SHALL NOT (A) PARTICIPATE IN ANY PARTISAN POLITICAL PARTY ACTIVITIES,
40 EXCEPT THAT SUCH CANDIDATE MAY REGISTER TO VOTE AS A MEMBER OF ANY POLI-
41 TICAL PARTY AND MAY VOTE IN ANY PARTY PRIMARY FOR CANDIDATES FOR NOMI-
42 NATION OF THE PARTY IN WHICH HE OR SHE IS REGISTERED TO VOTE; (B)
43 ENDORSE ANY CANDIDATE OR POLITICAL PARTY; OR (C) MAKE CONTRIBUTIONS TO
44 ANY CANDIDATE, POLITICAL PARTY COMMITTEE, POLITICAL ACTION COMMITTEE OR
45 POLITICAL COMMITTEE PURSUANT TO SUBDIVISION TEN OF SECTION 14-114 OF THE
46 ELECTION LAW.

47 7. THE COMMISSIONER SHALL DIRECT THE WORK OF THE DIVISION AND SHALL BE
48 THE CHIEF EXECUTIVE OFFICER OF THE DIVISION. THE COMMISSIONER MAY ENTER
49 INTO CONTRACTS AND EXPEND MONEY, AND APPOINT SUCH OFFICERS AND EMPLOYEES
50 AS HE OR SHE MAY DEEM NECESSARY, PRESCRIBE THEIR DUTIES, FIX THEIR
51 COMPENSATION, AND PROVIDE FOR THE REIMBURSEMENT OF THEIR EXPENSES, ALL
52 WITHIN AMOUNTS MADE AVAILABLE THEREFOR BY APPROPRIATION. SUCH STAFF
53 SHALL BE MANAGEMENT CONFIDENTIAL EMPLOYEES WITH AN UNDERSTANDING OF
54 PRIVATE SECTOR BUSINESS.

55 S 1012. GENERAL FUNCTIONS, POWERS AND DUTIES. THE DIVISION OF REGULA-
56 TORY REVIEW AND ECONOMIC GROWTH, BY AND THROUGH THE COMMISSIONER OR HIS

OR HER DULY AUTHORIZED OFFICERS AND EMPLOYEES, SHALL HAVE THE FOLLOWING FUNCTIONS, POWERS AND DUTIES:

1. TO PROVIDE AN OVERSIGHT, REVIEW AND ANALYSIS OF THE RULES AND REGULATORY PROCESSES OF STATE AGENCIES.

2. TO MAKE BINDING RECOMMENDATIONS TO THE GOVERNOR AND LEGISLATURE ON BURDENSOME NEW YORK STATE CODES, RULES, REGULATIONS, REGULATORY PROCESSES, AND PERMIT REQUIREMENTS TO ELIMINATE OR AMEND THEM, PURSUANT TO SECTION ONE THOUSAND FIFTEEN OF THIS ARTICLE.

3. TO REVIEW THE ENVIRONMENTAL QUALITY REVIEW PROCESS ESTABLISHED UNDER ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW AND MAKE RECOMMENDATIONS PURSUANT TO SUBDIVISION TWO OF THIS SECTION TO ESTABLISH A MORE EFFICIENT, PREDICTABLE, TIMELY, AND TRANSPARENT PROCESS, AND TO ENSURE THAT THE PROCESS DOES NOT STIFLE ECONOMIC GROWTH IN NEW YORK STATE.

4. TO REVIEW PERMIT REQUIREMENTS AND THE NEED BY THE STATE TO REQUIRE SUCH PERMITS. THE DIVISION SHALL MAKE RECOMMENDATIONS PURSUANT TO SUBDIVISION TWO OF THIS SECTION TO ELIMINATE, CONSOLIDATE, SIMPLIFY, EXPEDITE, OR OTHERWISE IMPROVE PERMITS, PERMIT PROCEDURES, AND PAPERWORK BURDENS AFFECTING LOCAL GOVERNMENTS, SCHOOL DISTRICTS OR BUSINESSES.

5. TO ENCOURAGE AND FACILITATE THE PARTICIPATION OF FEDERAL AND LOCAL GOVERNMENT AGENCIES IN REGULATORY REVIEW.

6. TO ESTABLISH AN 800 HOTLINE AND WEBSITE TO PROVIDE BUSINESSES WITH ONE CONTACT NUMBER TO DIRECT QUESTIONS AND TO PROVIDE ASSISTANCE TO BUSINESSES IN THE STATE OR BUSINESSES LOOKING TO OPEN OR EXPAND IN NEW YORK STATE. SUCH HOTLINE MAY BE USED TO REPORT REGULATORY BURDENS, STATE AGENCIES OVERREACHING THEIR POWER, EXCESSIVE FINES AND TO SUBMIT REQUESTS FOR REGULATORY REVIEW BY THE COMMISSIONER.

7. TO ADOPT SUCH RULES AND REGULATIONS, PROCEDURES, INSTRUCTIONS, AND FORMS AS ARE NECESSARY OR DESIRABLE TO CARRY OUT THE FUNCTIONS, POWERS, AND DUTIES IMPOSED UPON THE DIVISION BY THIS ARTICLE.

8. TO PUBLISH AN ANNUAL REPORT, AFTER JANUARY FIRST AND BEFORE FEBRUARY FIRST, COMMENCING TWO THOUSAND FOURTEEN, INCLUDING ALL RECOMMENDATIONS PROPOSED BY THE DIVISION AND THOSE RECOMMENDATIONS IMPLEMENTED BY THE STATE DURING THE PRIOR CALENDAR YEAR. SUCH REPORT SHALL INCLUDE SPECIFIC DETAILS CONCERNING ESTIMATED COST SAVINGS TO THE TAXPAYERS FROM PROPOSED RECOMMENDATIONS AND ACTUAL COST SAVINGS TO THE TAXPAYERS FROM IMPLEMENTED RECOMMENDATIONS.

S 1013. ASSISTANCE OF OTHER STATE AGENCIES. TO EFFECTUATE THE PURPOSES OF THIS ARTICLE, THE COMMISSIONER MAY REQUEST AND SHALL BE ENTITLED TO RECEIVE FROM ANY STATE AGENCY, AND THE SAME ARE AUTHORIZED TO PROVIDE, SUCH ASSISTANCE, SERVICES, FACILITIES, AND DATA AS WILL ENABLE THE DIVISION TO CARRY OUT ITS FUNCTIONS, POWERS AND DUTIES.

S 1014. REGULATION REVIEW. 1. IN DEVELOPING A RULE, EACH AGENCY HEAD SHALL, PRIOR TO SUBMITTING A NOTICE OF PROPOSED OR REVISED RULEMAKING FOR PUBLICATION IN THE STATE REGISTER PURSUANT TO SECTION TWO HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT, SUBMIT TO THE COMMISSIONER, IN SUCH FORM AND MANNER AS THE COMMISSIONER MAY PRESCRIBE, THE COMPLETE TEXT OF THE RULE, ANY IMPACT STATEMENTS WHICH WOULD BE REQUIRED BY ARTICLE TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT TO PROPOSE THE RULE, AND ANY COST-BENEFIT ANALYSIS, RISK ASSESSMENT AND/OR THE RESULTS OF A NEGOTIATED RULEMAKING OR POLICY DIALOGUE UNDERTAKEN IN CONJUNCTION WITH THE DEVELOPMENT OF THE RULE.

2. THE COMMISSIONER SHALL REVIEW THE AGENCY'S SUBMISSION TO DETERMINE WHETHER IT IS COMPLETE AND IN ACCORDANCE WITH THE GOALS, CRITERIA AND REQUIREMENTS OF THIS ARTICLE AND ARTICLE TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT, INCLUDING WHETHER THE RULE:

1 (A) IS CLEARLY WITHIN THE AUTHORITY DELEGATED BY LAW;
2 (B) IS CONSISTENT WITH AND NECESSARY TO ACHIEVE A SPECIFIC LEGISLATIVE
3 INTENT OF PROMOTING ECONOMIC GROWTH OR PROTECTING THE HEALTH AND SAFETY
4 OF THE PUBLIC;
5 (C) IS CONSISTENT WITH STATE STATUTORY REQUIREMENTS;
6 (D) DOES NOT IMPOSE A MANDATE ON LOCAL GOVERNMENTS, SCHOOL DISTRICTS
7 OR BUSINESSES THAT IS NOT FULLY FUNDED, EXCEPT AS SPECIFICALLY REQUIRED
8 BY STATE STATUTE;
9 (E) IS CLEARLY WRITTEN SO THAT ITS MEANING WILL BE EASILY UNDERSTOOD
10 BY THOSE PERSONS AFFECTED BY IT;
11 (F) DOES NOT UNNECESSARILY DUPLICATE OR EXCEED EXISTING FEDERAL OR
12 STATE STATUTES OR RULES;
13 (G) PRESCRIBES METHODOLOGIES OR REQUIREMENTS THAT ALLOW REGULATED
14 PARTIES FLEXIBILITY AND ENCOURAGE INNOVATION IN MEETING THE LEGISLATIVE
15 OR ADMINISTRATIVE REQUIREMENTS AND OBJECTIVES UNDERLYING THE RULE;
16 (H) IS BASED ON CREDIBLE ASSESSMENTS, USING RECOGNIZED STANDARDS, OF
17 THE DEGREE AND NATURE OF THE RISKS WHICH MAY BE REGULATED, INCLUDING A
18 COMPARISON WITH EVERYDAY RISKS FAMILIAR TO THE PUBLIC;
19 (I) GIVES PREFERENCE TO THE LEAST COSTLY, LEAST BURDENSOME REGULATORY
20 AND PAPERWORK REQUIREMENTS NEEDED TO ACCOMPLISH LEGISLATIVE AND ADMINIS-
21 TRATIVE OBJECTIVES;
22 (J) IS BASED UPON THE BEST SCIENTIFIC, TECHNICAL AND ECONOMIC INFORMA-
23 TION THAT CAN REASONABLY AND AFFORDABLY BE OBTAINED; AND
24 (K) IF POSSIBLE AND PRACTICAL, FAVORS MARKET-ORIENTED SOLUTIONS AND
25 PERFORMANCE STANDARDS OVER COMMAND-AND-CONTROL REGULATION.

26 3. IF THE COMMISSIONER DETERMINES THAT THE SUBMISSION IS COMPLETE,
27 COMPLIES WITH THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, WILL
28 PROMOTE ECONOMIC GROWTH, OR IS VITAL TO PROTECT THE HEALTH AND SAFETY OF
29 THE PUBLIC, THE COMMISSIONER SHALL AUTHORIZE THE AGENCY TO SUBMIT THE
30 RULEMAKING FOR PUBLICATION IN THE STATE REGISTER PURSUANT TO SECTION TWO
31 HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

32 4. IF THE COMMISSIONER DETERMINES THE SUBMISSION IS NOT COMPLETE OR
33 DOES NOT COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF THIS
34 SECTION, OR IS DETRIMENTAL TO ECONOMIC GROWTH IN NEW YORK STATE, OR IS
35 NOT VITAL TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC, THE COMMIS-
36 SIONER MAY REJECT THE RULE OR RETURN IT TO THE AGENCY, TOGETHER WITH ANY
37 DIRECTION THAT THE AGENCY AMEND, PREPARE OR REVISE THE RULE, ANY
38 SUPPORTING IMPACT STATEMENTS, COST BENEFIT ANALYSIS, RISK ASSESSMENT,
39 AND/OR UNDERTAKE A NEGOTIATED RULEMAKING OR POLICY DIALOGUE TO DEVELOP A
40 RULE FOR PROPOSAL. THE DIVISION MAY ASSIST THE AGENCY IN DEVELOPING A
41 PROPOSAL THAT MEETS THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION.

42 5. AN AGENCY MAY CONSULT INFORMALLY WITH THE DIVISION REGARDING
43 PROPOSED RULES, SUPPORTING IMPACT STATEMENTS, AND OTHER DOCUMENTS AT ANY
44 TIME PRIOR TO THE SUBMISSION OF SUCH MATERIALS PURSUANT TO SUBDIVISION
45 ONE OF THIS SECTION. SUCH INFORMAL CONSULTATION SHALL NOT BE BINDING ON
46 THE DIVISION OR THE AGENCY.

47 6. NO AGENCY HEAD SHALL SUBMIT A NOTICE OF PROPOSED OR REVISED RULE-
48 MAKING FOR PUBLICATION IN THE STATE REGISTER PURSUANT TO SECTION TWO
49 HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT, WITHOUT EXPRESS
50 APPROVAL BY THE COMMISSIONER. THE COMMISSIONER, IN HIS OR HER SOLE
51 DISCRETION, MAY REJECT ANY PARTICULAR RULE OR CATEGORY OF RULES HE OR
52 SHE DETERMINES IS DETRIMENTAL TO ECONOMIC GROWTH IN NEW YORK STATE, OR
53 IS NOT VITAL TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC. THE DIVI-
54 SIONS SHALL PROMPTLY NOTIFY THE AGENCY OF ANY SUCH REJECTION.

55 S 1015. DIVISION ANNUAL RECOMMENDATIONS. ON OR BEFORE JANUARY 1, 2013
56 AND ANNUALLY THEREAFTER, THE DIVISION SHALL TRANSMIT TO THE GOVERNOR AND

1 THE LEGISLATURE A REPORT CONTAINING ITS RECOMMENDATIONS, WHICH SHALL
2 INCLUDE: 1. SPECIFIC RECOMMENDATIONS FOR REPEALING OR AMENDING NEW YORK
3 STATE CODES, RULES, REGULATIONS, REGULATORY PROCESSES, AND PERMIT
4 REQUIREMENTS AS IT DEEMS NECESSARY TO LOWER COSTS FOR LOCAL GOVERNMENTS,
5 SCHOOL DISTRICTS AND BUSINESSES OR PROMOTE ECONOMIC GROWTH; AND 2.
6 RECOMMENDED DATES BY WHICH SUCH ACTIONS SHOULD OCCUR.

7 S 1016. IMPLEMENTATION OF RECOMMENDATIONS. 1. NOTWITHSTANDING ANY
8 CONTRARY PROVISION OF LAW, RULE OR REGULATION RELATED TO THE REPEAL OR
9 AMENDMENT OF ANY NEW YORK STATE CODES, RULES, REGULATIONS, REGULATORY
10 PROCESSES, AND PERMIT REQUIREMENTS IDENTIFIED IN THE DIVISION'S RECOM-
11 MENDATIONS, THE SECRETARY OF STATE SHALL TAKE ALL ACTIONS NECESSARY TO
12 IMPLEMENT, IN A REASONABLE, COST-EFFICIENT MANNER, THE RECOMMENDATIONS
13 OF THE DIVISION PURSUANT TO SECTION ONE THOUSAND FIFTEEN OF THIS ARTI-
14 CLE, INCLUDING, BUT NOT LIMITED TO COORDINATION WITH STATE AGENCIES,
15 AUTHORITIES, AND OTHER PARTIES AS THE COMMISSIONER DEEMS APPROPRIATE.

16 2. THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY:
17 (A) UNLESS THE GOVERNOR HAS TRANSMITTED THE DIVISION'S REPORT UNDER
18 SECTION ONE THOUSAND FIFTEEN OF THIS ARTICLE WITH HIS OR HER WRITTEN
19 APPROVAL OF THE RECOMMENDATIONS OF THE DIVISION PURSUANT TO SECTION ONE
20 THOUSAND FIFTEEN OF THIS ARTICLE TO THE SECRETARY OF STATE AND TRANSMIT-
21 TED A MESSAGE TO THE LEGISLATURE STATING HIS OR HER APPROVAL OR
22 REJECTION OF THE REPORT WITHIN FIVE DAYS OF RECEIVING SUCH REPORT; AND
23 (B) IF A MAJORITY OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE VOTE
24 TO ADOPT A CONCURRENT RESOLUTION REJECTING THE RECOMMENDATIONS OF THE
25 DIVISION PURSUANT TO SECTION ONE THOUSAND FIFTEEN OF THIS ARTICLE IN
26 THEIR ENTIRETY WITHIN SIXTY DAYS, AFTER RECEIVING A MESSAGE FROM THE
27 GOVERNOR UNDER THIS SUBDIVISION. IN NO EVENT SHALL THE SECRETARY OF
28 STATE BEGIN TO IMPLEMENT THE RECOMMENDATIONS OF THE DIVISION PURSUANT TO
29 SECTION ONE THOUSAND FIFTEEN OF THIS ARTICLE PRIOR TO THE EXPIRATION OF
30 THE LEGISLATURE'S SIXTY DAY REVIEW PERIOD.

31 S 1017. COST OF REGULATION STUDY. THE COMMISSIONER IS HEREBY AUTHOR-
32 IZED AND DIRECTED TO PREPARE OR HAVE PREPARED A COMPREHENSIVE STUDY TO
33 MEASURE AND REPORT THE COST OF REGULATIONS TO BUSINESSES THROUGHOUT THE
34 STATE OF NEW YORK.

35 2. SUCH STUDY SHALL BE COMPLETED WITHIN EIGHTEEN MONTHS OF THE EFFEC-
36 TIVE DATE OF THIS ACT.

37 S 2. Paragraph (a) of subdivision 6-a of section 202 of the state
38 administrative procedure act, as amended by chapter 171 of the laws of
39 1994, is amended to read as follows:

40 (a) An agency shall transmit a copy of any rule making notice prepared
41 pursuant to this article AND APPROVED BY THE COMMISSIONER OF THE DIVI-
42 SION OF REGULATORY REVIEW AND ECONOMIC GROWTH PURSUANT TO ARTICLE
43 FIFTY-ONE OF THE EXECUTIVE LAW to the governor, the temporary president
44 of the senate, the speaker of the assembly, THE MINORITY LEADER OF THE
45 SENATE, THE MINORITY LEADER OF THE ASSEMBLY, the administrative regu-
46 lations review commission and the office of regulatory and management
47 assistance at the time such notice is submitted to the secretary of
48 state for publication in the state register. Such transmittal shall
49 include the complete rule text, regulatory impact statement, regulatory
50 flexibility analysis, rural area flexibility analysis, or revisions
51 thereof, and any other information submitted to the secretary of state
52 pursuant to this article.

53 S 3. Section 86 of the legislative law, as added by chapter 689 of the
54 laws of 1978, is amended to read as follows:

55 S 86. Administrative regulations review commission. There is hereby
56 created an administrative regulations review commission to consist of

1 two members of the senate to be appointed by the temporary president of
2 the senate, two members of the assembly to be appointed by the speaker
3 of the assembly, [one member] TWO MEMBERS of the senate to be appointed
4 by the minority leader of the senate and [one member] TWO MEMBERS of the
5 assembly to be appointed by the minority leader of the assembly. The
6 temporary president of the senate and the speaker of the assembly shall
7 each appoint a co-chairman from among the commission membership. Any
8 vacancies shall be filled in the same manner as the original appoint-
9 ment. Such appointees shall serve at the pleasure of the respective
10 legislative member making such appointment.

11 S 4. Section 87 of the legislative law, as added by chapter 689 of the
12 laws of 1978, is amended to read as follows:

13 S 87. Powers and duties. 1. The commission shall exercise continuous
14 oversight of the process of rule making and examine rules, as defined in
15 subdivision two of section one hundred two of the state administrative
16 procedure act, adopted or proposed by each agency with respect to (i)
17 statutory authority, (ii) compliance with legislative intent, (iii)
18 impact on the economy and on the government operations of the state and
19 its local governments, and (iv) impact on affected parties; and, in
20 furtherance of such duties, may examine other issues it deems appropri-
21 ate. For purpose of this article, the term agency shall mean any depart-
22 ment, board, bureau, commission, division, office, council, committee or
23 officer of the state or a public benefit corporation or public authority
24 at least one of whose members is appointed by the governor.

25 2. THE COMMISSION SHALL REVIEW ANY LEGISLATION REQUIRING A COMMISSION-
26 ER OR AGENCY AS DEFINED BY SUBDIVISION ONE OF SECTION ONE HUNDRED TWO OF
27 THE STATE ADMINISTRATIVE PROCEDURE ACT, TO PROMULGATE ANY CODES, RULES
28 AND REGULATIONS NECESSARY FOR THE IMPLEMENTATION AND MAKE RECOMMENDA-
29 TIONS TO THE MEMBERS OF THE LEGISLATURE. SUCH RECOMMENDATIONS SHOULD
30 INCLUDE THE COMMISSION'S APPROVAL IF THE LEGISLATION IS DEEMED NECESSARY
31 TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC OR THE COMMISSION'S
32 DISAPPROVAL IF SUCH LEGISLATION IS DEEMED DETRIMENTAL TO ECONOMIC GROWTH
33 IN NEW YORK STATE, OR IS NOT VITAL TO PROTECT THE HEALTH AND SAFETY OF
34 THE PUBLIC.

35 3. THE COMMISSION SHALL REVIEW NEW YORK STATE LAWS THAT RESULT IN THE
36 PROMULGATION OF CODES, RULES OR REGULATIONS BY A COMMISSIONER OR AGENCY
37 AS DEFINED BY SUBDIVISION ONE OF SECTION ONE HUNDRED TWO OF THE STATE
38 ADMINISTRATIVE PROCEDURE ACT, OR ANY LAWS THE COMMISSION DEEMS A REGULA-
39 TORY BURDEN ON LOCAL GOVERNMENTS, SCHOOL DISTRICTS OR BUSINESSES AND
40 MAKE RECOMMENDATIONS TO THE MEMBERS OF THE LEGISLATURE. SUCH RECOMMENDA-
41 TIONS SHOULD INCLUDE THE COMMISSION'S REQUEST FOR THE REPEAL OF LAWS IT
42 DEEMS INCREASE COSTS FOR LOCAL GOVERNMENTS, SCHOOL DISTRICTS OR BUSI-
43 NESSES OR ARE DETRIMENTAL TO ECONOMIC GROWTH IN NEW YORK STATE, OR ARE
44 NOT VITAL TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC.

45 4. The commission may employ such staff and retain such consultants
46 and expert services as may be necessary and fix their compensation and
47 expenses within the amounts appropriated therefor. Employment by the
48 commission shall be deemed to be employment by the legislature for all
49 purposes.

50 [3] 5. The commission shall have the power, subject to the provisions
51 of section seventy-three of the civil rights law, to hold hearings,
52 subpoena witnesses, administer oaths, take testimony and compel the
53 production of books, papers, documents and other evidence in furtherance
54 of its duties; provided, however, that no subpoena shall issue except
55 upon the affirmative vote of a majority of the whole membership of the
56 commission. The commission may request and shall receive from all agen-

1 cies such assistance and data as will enable it properly to consummate
2 any such examination, and review.

3 S 5. Section 88 of the legislative law, as amended by chapter 850 of
4 the laws of 1990, is amended to read as follows:

5 S 88. Reports. The commission shall, [from time to time] ANNUALLY,
6 report its findings and recommendations to the governor, the temporary
7 president of the senate and the speaker of the assembly, THE MINORITY
8 LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, and to the
9 members of the legislature, and may at any time make recommendations to
10 THE DIVISION OF REGULATORY REVIEW AND ECONOMIC GROWTH AND an agency
11 based upon its review of that agency's rule making process, or any of
12 the agency's proposed, revised or adopted rules.

13 S 6. The legislative law is amended by adding a new section 88-a to
14 read as follows:

15 S 88-A. REGULATORY WEDNESDAYS. 1. EVERY WEDNESDAY, WHICH IS A SCHED-
16 ULED SESSION DAY FOR THE LEGISLATURE IN EVERY WEEK BEGINNING WITH A
17 SCHEDULED SESSION DAY ON MONDAY, SHALL BE DEEMED REGULATORY WEDNESDAY.
18 THE COMMISSION SHALL BE REQUIRED TO MEET ON EVERY REGULATORY WEDNESDAY
19 TO PERFORM ITS POWERS AND DUTIES PURSUANT TO SECTION EIGHTY-SEVEN OF
20 THIS ARTICLE.

21 2. ON EVERY REGULATORY WEDNESDAY, THE SENATE AND ASSEMBLY SHALL TAKE
22 UP ANY BILLS ON ANY ORDER OF THIRD READING THAT ARE BEFORE EACH RESPEC-
23 TIVE HOUSE FOR FINAL DISPOSITION, THAT HAVE GAINED THE APPROVAL OF THE
24 COMMISSION PRIOR TO TAKING UP ANY OTHER BILL ON ANY ORDER OF THIRD READ-
25 ING, UNLESS SUCH ACTION IS WAIVED, WITHOUT DEBATE, UPON A MAJORITY VOTE
26 OF THE MEMBERS PRESENT.

27 S 7. Severability clause. If any clause, sentence, paragraph, subdivi-
28 sion, section or part of this act shall be adjudged by any court of
29 competent jurisdiction to be invalid, such judgment shall not affect,
30 impair, or invalidate the remainder thereof, but shall be confined in
31 its operation to the clause, sentence, paragraph, subdivision, section
32 or part thereof directly involved in the controversy in which such judg-
33 ment shall have been rendered. It is hereby declared to be the intent of
34 the legislature that this act would have been enacted even if such
35 invalid provisions had not been included herein.

36 S 8. This act shall take effect on the one hundred twentieth day after
37 it shall have become a law and shall apply to rules and revised rules to
38 be submitted for publication in the state register on and after such
39 date.