

4819

2011-2012 Regular Sessions

I N S E N A T E

April 27, 2011

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the state administrative procedure act, in relation to streamlining regulatory analysis documents

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

1 Section 1. Paragraph (a) of subdivision 2 of section 201-a of the
2 state administrative procedure act, as added by chapter 189 of the laws
3 of 1996, is amended to read as follows:

4 (a) When it is apparent from the nature and purpose of the rule that
5 it will not have a substantial adverse impact on jobs and employment
6 opportunities, the agency shall include in the [notice of proposed rule
7 making or the notice of emergency adoption a] REGULATORY IMPACT STATE-
8 MENT PREPARED PURSUANT TO SECTION TWO HUNDRED TWO-A OF THIS ARTICLE, A
9 BRIEF statement that the agency has determined that the rule will not
10 have a substantial adverse impact on jobs and employment opportunities;
11 provided, however, that, where appropriate, such statement shall indi-
12 cate that the agency has determined the rule will have a positive impact
13 on jobs and employment opportunities, or will have no impact on jobs and
14 employment opportunities. Except where it is evident from the subject
15 matter of the rule that the rule could only have a positive impact or no
16 impact on jobs and employment opportunities, the agency shall include in
17 the statement prepared pursuant to this paragraph a summary of the
18 information and methodology underlying its determination.

19 S 2. Paragraph (a) of subdivision 5 of section 202-a of the state
20 administrative procedure act, as amended by chapter 698 of the laws of
21 1984, is amended to read as follows:

22 (a) An agency may claim an exemption from the requirements of this
23 section AND SECTIONS TWO HUNDRED ONE-A, TWO HUNDRED TWO-B AND TWO
24 HUNDRED TWO-BB OF THIS ARTICLE for a rule that involves only a technical
25 amendment, provided, however, the agency shall state in the notice,
26 prepared pursuant to section two hundred two of this [chapter] ARTICLE,
27 the reason or reasons for claiming such exemption.

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

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1 S 3. Paragraph (a) of subdivision 3 of section 202-b of the state
2 administrative procedure act, as amended by chapter 611 of the laws of
3 1996, is amended to read as follows:

4 (a) This section shall not apply to any rule defined in subparagraph
5 (ii) of paragraph (a) of subdivision two of section one hundred two of
6 this chapter, nor shall it apply to any rule which does not impose an
7 adverse economic impact on small businesses or local governments and
8 which the agency finds would not impose reporting, recordkeeping or
9 other compliance requirements on small businesses or local governments.
10 The agency's finding and the reasons upon which the finding was made,
11 including what measures the agency took to ascertain that the rule would
12 not impose such compliance requirements, or adverse economic impact on
13 small businesses or local governments, shall be included in the [rule
14 making notice] REGULATORY IMPACT STATEMENT as required by section two
15 hundred [two] TWO-A of this [chapter] ARTICLE.

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

19 5. In complying with the provisions of subdivision two of this
20 section, an agency may: (A) provide either a quantifiable or numerical
21 description of the effects of a rule or more general descriptive state-
22 ments if quantification is not practicable or reliable; AND (B) IF
23 INFORMATION THAT SATISFIES THE REQUIREMENTS OF PARAGRAPH (B), (C) OR (D)
24 OF SUBDIVISION TWO OF THIS SECTION IS CONTAINED IN THE REGULATORY IMPACT
25 STATEMENT OR ANOTHER DOCUMENT ISSUED FOR THE RULE PURSUANT TO THIS ARTI-
26 CLE, SUMMARIZE SUCH INFORMATION AND REFER TO SUCH DOCUMENT IN LIEU OF
27 DUPLICATING THE INFORMATION IN THE REGULATORY FLEXIBILITY ANALYSIS.

28 S 5. Paragraph (a) of subdivision 4 of section 202-bb of the state
29 administrative procedure act, as added by chapter 171 of the laws of
30 1994, is amended to read as follows:

31 (a) This section shall not apply to any rule defined in subparagraph
32 (ii) of paragraph (a) of subdivision two of section one hundred two of
33 this chapter, nor shall it apply to any rule which does not impose an
34 adverse impact on rural areas and which the agency finds would not
35 impose reporting, recordkeeping or other compliance requirements on
36 public or private entities in rural areas. The agency's finding and the
37 reasons upon which the finding was made, including what measures the
38 agency took to ascertain that the rule would not impose such compliance
39 requirements or adverse impact, shall be included in the [rule making
40 notice] REGULATORY IMPACT STATEMENT as required by section two hundred
41 [two] TWO-A of this [chapter] ARTICLE.

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

45 6. In complying with the provisions of subdivision three of this
46 section, an agency may: (A) provide either a quantifiable or numerical
47 description of the effects of a rule or more general descriptive state-
48 ments if quantification is not practicable or reliable; AND (B) IF
49 INFORMATION THAT SATISFIES THE REQUIREMENTS OF PARAGRAPH (B) OR (C) OF
50 SUBDIVISION THREE OF THIS SECTION IS CONTAINED IN THE REGULATORY IMPACT
51 STATEMENT OR ANOTHER DOCUMENT ISSUED FOR THE RULE PURSUANT TO THIS ARTI-
52 CLE, SUMMARIZE SUCH INFORMATION AND REFER TO SUCH DOCUMENT IN LIEU OF
53 DUPLICATING THE INFORMATION IN THE RURAL AREA FLEXIBILITY ANALYSIS.

54 S 7. This act shall take effect on the first of October next succeed-
55 ing the date on which it shall have become a law, and shall apply to all
56 rule making notices initially prepared on or after such date.