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I N S E N A T E

February 9, 2012

Introduced by Sens. VALESKY, CARLUCCI, KLEIN, SAVINO -- 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 the impact of proposed rules on jobs and employment opportunities

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

- 1 Section 1. Subdivision 1 of section 201-a of the state administrative
2 procedure act, as added by chapter 189 of the laws of 1996, is amended
3 to read as follows:
4 1. In [developing] THE INITIAL DEVELOPMENT, PREPARATION AND PROMULGA-
5 TION OF a rule, an agency shall strive to accomplish the objectives of
6 applicable statutes in a manner which minimizes any unnecessary adverse
7 impacts on existing jobs and promotes the development of new employment
8 opportunities, including opportunities for self-employment, for the
9 residents of the state.
10 S 2. The opening paragraph, and paragraphs (c), (d) and (e) of subdi-
11 vision 2 of section 201-a of the state administrative procedure act, as
12 added by chapter 189 of the laws of 1996, are amended to read as
13 follows:
14 Before proposing a rule for adoption or adopting a rule on an emergen-
15 cy basis, an agency shall evaluate the potential impact of the rule on
16 EXISTING AND POTENTIAL FUTURE jobs and employment opportunities.
17 (c) When the information available to an agency is insufficient to
18 enable it to determine whether a rule will have a substantial adverse
19 impact on jobs or employment opportunities, or to prepare a job impact
20 statement pursuant to paragraph (b) of this subdivision, the agency
21 shall issue a statement indicating the information which it needs to
22 complete a job impact statement and requesting the assistance of other
23 state agencies, REGULATED PERSONS and the public in obtaining such
24 information.
25 (d) An agency shall issue a revised job impact statement when:
26 (i) the information presented in the statement is inadequate, MISLEAD-
27 ING or incomplete;

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

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(ii) the proposed rule contains any substantial revisions which necessitate that such statement be modified; or

(iii) the agency has issued a statement pursuant to paragraph (c) of this subdivision, and has received information from other state agencies, REGULATED PERSONS or the public which enable it to provide a more complete evaluation of the potential impact of the rule on jobs and employment opportunities.

(e) If, after requesting the assistance of other state agencies, REGULATED PERSONS and the public pursuant to paragraph (c) of this subdivision, an agency is still unable to determine whether the rule will have a substantial adverse impact on jobs and employment opportunities, it may adopt the rule. When adopting a rule pursuant to this paragraph, the agency shall issue a revised job impact statement which includes information on the measures the agency took to evaluate the potential impact of the rule on jobs and employment opportunities.

S 3. Subparagraph (viii) of paragraph (f) of subdivision 1 of section 202 of the state administrative procedure act, as amended by chapter 229 of the laws of 2000, is amended and a new subparagraph (vii-a) is added to read as follows:

(VII-A) INCLUDE THE JOB IMPACT STATEMENTS PREPARED PURSUANT TO SECTION TWO HUNDRED ONE-A OF THIS ARTICLE;

(viii) give the name, public office address and telephone number of an agency representative, who is knowledgeable on the proposed rule, from whom the complete text of such rule and any scientific or statistical study, report and analysis that served as the basis for the rule and any supporting data, the regulatory impact statement, the regulatory flexibility analysis, THE JOB IMPACT STATEMENT and the rural area flexibility analysis may be obtained; from whom information about any public hearing may be obtained; and to whom written data, views and arguments may be submitted; and

S 4. Subparagraph (vii) of paragraph (c) of subdivision 4-a of section 202 of the state administrative procedure act, as amended by chapter 171 of the laws of 1994, is amended and a new subparagraph (vi-a) is added to read as follows:

(VI-A) INCLUDE THE REVISED JOB IMPACT STATEMENTS PREPARED PURSUANT TO SECTION TWO HUNDRED ONE-A OF THIS ARTICLE;

(vii) give the name, address and telephone number of an agency representative knowledgeable on the rule, from whom the complete revised text of such rule, any revised regulatory impact statement, any revised regulatory flexibility analysis, ANY REVISED JOB IMPACT STATEMENT and any revised rural area flexibility analysis may be obtained; from whom information about any additional public hearing may be obtained; and to whom written data, views and arguments may be submitted;

S 5. Subparagraph (viii) of paragraph (c) of subdivision 5 of section 202 of the state administrative procedure act, as amended by chapter 171 of the laws of 1994, is amended and a new subparagraph (vi-a) is added to read as follows:

(VI-A) INCLUDE THE REVISED JOB IMPACT STATEMENTS PREPARED PURSUANT TO SECTION TWO HUNDRED ONE-A OF THIS ARTICLE;

(viii) give the name, public office address and telephone number of an agency representative from whom the complete text of the rule and any revised regulatory impact statement, revised regulatory flexibility analysis, REVISED JOB IMPACT STATEMENT, rural area flexibility analysis or assessment of comments may be obtained; and

S 6. Subparagraph (x) of paragraph (d) of subdivision 6 of section 202 of the state administrative procedure act, as amended by chapter 171 of

1 the laws of 1994, is amended and a new subparagraph (ix-a) is added to
2 read as follows:

3 (IX-A) INCLUDE THE JOB IMPACT STATEMENT PREPARED PURSUANT TO SECTION
4 TWO HUNDRED ONE-A OF THIS ARTICLE;

5 (x) give the name, public office address and telephone number of an
6 agency representative, knowledgeable on the rule, from whom a complete
7 text of such rule, the regulatory impact statement, THE JOB IMPACT
8 STATEMENT, regulatory flexibility analysis, and the rural area flexibil-
9 ity analysis may be obtained; from whom information about any public
10 hearing may be obtained; and to whom written data, views and arguments
11 may be submitted; and

12 S 7. Paragraphs (a) and (b) of subdivision 6-a of section 202 of the
13 state administrative procedure act, as amended by chapter 171 of the
14 laws of 1994, are amended to read as follows:

15 (a) An agency shall transmit a copy of any rule making notice prepared
16 pursuant to this article to the governor, the temporary president of the
17 senate, the speaker of the assembly[,] AND the administrative regu-
18 lations review commission [and the office of regulatory and management
19 assistance] at the time such notice is submitted to the secretary of
20 state for publication in the state register. Such transmittal shall
21 include the complete rule text, regulatory impact statement, JOB IMPACT
22 STATEMENT, regulatory flexibility analysis, rural area flexibility anal-
23 ysis, or revisions thereof, and any other information submitted to the
24 secretary of state pursuant to this article.

25 (b) An agency shall make a copy of the complete text of any proposed,
26 adopted or emergency rule, regulatory impact statement, regulatory flex-
27 ibility analysis, JOB IMPACT STATEMENT rural area flexibility analysis,
28 or revisions thereof available to the public at the time such documents
29 are submitted to the secretary of state for publication in the state
30 register and shall send to any person a copy of such text upon written
31 request.

32 S 8. This act shall take effect on the first of January next succeed-
33 ing the date on which it shall have become a law, and shall apply to any
34 rule first proposed on or after such date.