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

6448

I N S E N A T E

February 9, 2012

Introduced by Sens. CARLUCCI, KLEIN, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the legislative law, in relation to requiring bills which enact or amend any provision of law which affects businesses or local governments in this state to be accompanied by a legislative regulatory impact statement

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

Section 1. The legislative law is amended by adding a new section 51-a to read as follows:

S 51-A. LEGISLATIVE REGULATORY IMPACT STATEMENTS. 1. DEFINITIONS. AS USED IN THIS SECTION:

A. "COMMISSION" SHALL MEAN THE ADMINISTRATIVE REGULATIONS REVIEW COMMISSION ESTABLISHED PURSUANT TO ARTICLE FIVE-B OF THIS CHAPTER.

B. "IMPACT STATEMENT" SHALL MEAN A LEGISLATIVE REGULATORY IMPACT STATEMENT REQUIRED PURSUANT TO THIS SECTION.

C. "RULE" SHALL MEAN A RULE AS DEFINED IN SUBDIVISION TWO OF SECTION ONE HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

D. "STATE AGENCY" SHALL MEAN AN AGENCY AS DEFINED IN SUBDIVISION ONE OF SECTION ONE HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

2. A. EVERY BILL AND AMENDMENT THEREOF INTRODUCED IN THE LEGISLATURE WHICH, IF ENACTED INTO LAW, MAY IMPOSE OR RESULT IN (I) A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS FIRMS, REGARDLESS OF THEIR SIZE, IN THIS STATE OR UPON LOCAL GOVERNMENTS; OR (II) SIGNIFICANT ADDITIONAL REPORTING, RECORDKEEPING OR OTHER COMPLIANCE REQUIREMENT UPON BUSINESSES IN THIS STATE OR UPON LOCAL GOVERNMENTS; OR (III) OTHER MANDATES THAT COULD INCREASE THE COST OF CONDUCTING BUSINESS IN THIS STATE; OR (IV) THE DIRECT LOSS OF EMPLOYMENT IN THIS STATE OR THE SUPPRESSING OF FUTURE PROSPECTS OF INCREASED JOB GROWTH IN THIS STATE; OR (V) AN ADVERSE IMPACT ON THE ECONOMY OF THIS STATE; OR (VI) THE ESTABLISHMENT OF NEW OR ADDITIONAL PERMIT, LICENSE, APPROVAL, REGISTRATION OR CHARTER REQUIREMENTS FOR THE CONDUCTING OF ANY BUSINESS ACTIVITY IN THIS STATE; SHALL

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

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BE ACCOMPANIED, ON A SEPARATE FORM, BY A LEGISLATIVE REGULATORY IMPACT STATEMENT PRIOR TO ITS PASSAGE BY THE LEGISLATURE.

B. EVERY BILL AND AMENDMENT THEREOF INTRODUCED IN THE LEGISLATURE SHALL, IMMEDIATELY UPON ITS PRINTING, BE DELIVERED TO THE COMMISSION FOR A DETERMINATION BY SUCH COMMISSION OF WHETHER THE BILL OR AMENDMENT IS REQUIRED TO BE ACCOMPANIED BY AN IMPACT STATEMENT PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION. IN THE EVENT THE COMMISSION RECEIVES AN AMENDMENT OF A BILL FOR WHICH AN IMPACT STATEMENT EXISTS AND HAS BEEN FILED, THE COMMISSION MAY DETERMINE THAT THE EXISTING IMPACT STATEMENT OR A REVISED VERSION THEREOF SHALL SUFFICE FOR PURPOSES OF THIS SECTION.

C. FOR EVERY BILL AND AMENDMENT THEREOF WHICH REQUIRES AN IMPACT STATEMENT, THE COMMISSION SHALL, WITHIN THIRTY DAYS OF THE RECEIPT THEREOF, NOTIFY THE SPONSOR OF THE BILL OR AMENDMENT WHETHER IT REQUIRES AN IMPACT STATEMENT PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION; PROVIDED, HOWEVER, THAT FOR BILLS AND AMENDMENTS RECEIVED ON OR AFTER MAY FIRST, SUCH NOTIFICATION SHALL BE PROVIDED WITHIN TEN DAYS, AND FOR THOSE RECEIVED ON OR AFTER JUNE FIFTEENTH, SUCH NOTIFICATION SHALL OCCUR WITHIN TWENTY-FOUR HOURS. IN ANY INSTANCE IN WHICH THE COMMISSION FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS PARAGRAPH, THE REQUIREMENTS OF THIS SECTION SHALL BE DEEMED TO HAVE BEEN WAIVED WITH REGARD TO SUCH BILL OR AMENDMENT.

3. A. UPON RECEIPT OF NOTIFICATION FROM THE COMMISSION THAT A BILL OR AMENDMENT REQUIRES AN IMPACT STATEMENT, THE SPONSOR THEREOF SHALL CAUSE SUCH AN IMPACT STATEMENT TO BE PREPARED. UPON COMPLETION OF THE IMPACT STATEMENT, THE SPONSOR SHALL FILE THE IMPACT STATEMENT WITH THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE COMMISSION, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, THE SENATE COMMITTEE ON COMMERCE, ECONOMIC DEVELOPMENT AND SMALL BUSINESS, THE ASSEMBLY COMMITTEE ON ECONOMIC DEVELOPMENT, JOB CREATION, COMMERCE AND INDUSTRY, THE ASSEMBLY COMMITTEE ON SMALL BUSINESS, AND ANY OTHER PERSONS OR COMMITTEES AS SHALL BE PROVIDED PURSUANT TO THE RULES OF THE SENATE AND THE RULES OF THE ASSEMBLY. THE LEGISLATURE SHALL BY CONCURRENT RESOLUTION ADOPT RULES PROVIDING FOR THE PROCESS FOR THE REVIEW OF IMPACT STATEMENTS, AND OF THE BILLS AND AMENDMENTS TO WHICH SUCH STATEMENTS RELATE.

B. EACH IMPACT STATEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO:

(I) NEEDS AND BENEFITS. A STATEMENT SETTING FORTH THE PURPOSE, NECESSITY AND BENEFITS TO BE DERIVED FROM THE PROPOSED LEGISLATION;

(II) COSTS. A STATEMENT DETAILING THE ESTIMATED OR PROJECTED COSTS OF THE PROPOSED LEGISLATION WHEN ENACTED INTO LAW. SUCH STATEMENT SHALL INCLUDE: (A) THE COSTS OF IMPLEMENTING AND THE CONTINUED COMPLIANCE WITH THE PROVISIONS OF THE PROPOSED LEGISLATION TO REGULATED INDIVIDUALS, BUSINESSES, LOCAL GOVERNMENTS AND/OR OTHER ENTITIES; (B) THE COSTS OF IMPLEMENTING AND THE CONTINUED COMPLIANCE WITH THE PROVISIONS OF THE PROPOSED LEGISLATION TO AGENCIES AND LOCAL GOVERNMENTS; AND (C) INFORMATION ON AND METHODOLOGY USED TO CALCULATE THE COST ANALYSIS AND PROJECTED COSTS, AND THE SOURCE OR SOURCES THEREOF;

(III) PAPERWORK OR DOCUMENTATION. A STATEMENT DESCRIBING THE NEED FOR AND THE EXTENT OF ANY REPORTING AND DOCUMENTATION COSTS AND ADMINISTRATIVE COSTS, AND THE NEED TO PREPARE REPORTS, FORMS AND OTHER PAPERWORK THAT WILL RESULT FROM IMPLEMENTATION OF THE PROPOSED LEGISLATION;

(IV) ALTERNATIVE APPROACHES. A STATEMENT DECLARING WHETHER ANY SIGNIFICANT ALTERNATIVES TO THE REGULATORY PROVISIONS OF THE PROPOSED LEGISLATION WERE CONSIDERED THAT, WHILE ACHIEVING THE PURPOSES OF THE PROPOSED LEGISLATION, WOULD REDUCE OR MINIMIZE THE ADVERSE ECONOMIC IMPACT THEREOF, OR WOULD MINIMIZE REGULATORY OR STATUTORY COSTS,

MANDATES, OR OTHER ECONOMIC OR ADMINISTRATIVE BURDENS IMPOSED UPON THE REGULATED INDIVIDUALS, BUSINESSES, LOCAL GOVERNMENTS AND/OR OTHER PARTIES;

(V) FEDERAL STANDARDS. A STATEMENT IDENTIFYING WHETHER THE PROPOSED LEGISLATION PROVIDES FOR AN EXPANSION OF THE MINIMUM STANDARDS REQUIRED BY THE FEDERAL GOVERNMENT FOR THE SAME OR A SIMILAR SUBJECT AREA, AND, IF SO, A DETAILED EXPLANATION OF WHY IT IS NECESSARY TO EXCEED SUCH MINIMUM STANDARDS; AND

(VI) JOB IMPACT. A STATEMENT AFFIRMING THAT THE PROPOSED LEGISLATION IS DRAFTED IN SUCH A MANNER AS TO MINIMIZE, TO THE MAXIMUM EXTENT PRACTICABLE, ANY UNNECESSARY OR UNREASONABLE ADVERSE IMPACT ON EXISTING JOBS AND THE DEVELOPMENT OF EMPLOYMENT OPPORTUNITIES IN THE FUTURE.

4. EVERY BILL, WHICH IS REQUIRED TO HAVE AN IMPACT STATEMENT AND HAS PASSED BOTH HOUSES OF THE LEGISLATURE, SHALL, UPON BEING SENT TO THE GOVERNOR FOR HIS OR HER APPROVAL OR VETO, INCLUDE A COPY OF THE IMPACT STATEMENT FOR SUCH BILL.

S 2. Subdivision 1 of section 87 of the legislative law, as added by chapter 689 of the laws of 1978, is amended and a new subdivision 4 is added to read as follows:

1. The commission shall exercise continuous oversight of the process of rule making and examine rules, as defined in subdivision two of section one hundred two of the state administrative procedure act, adopted or proposed by each agency with respect to (i) statutory authority, (ii) compliance with legislative intent, (iii) impact on the economy and on the government operations of the state and its local governments, [and] (iv) MINIMIZING THE IMPOSITION OF ANY UNNECESSARY OR OVER-BURDENSOME RULES WHICH ADVERSELY IMPACT EXISTING JOBS IN THE STATE, OR WHICH DETRIMENT THE STATE'S BUSINESS CLIMATE, OR DIMINISH THE ABILITY TO DEVELOP NEW EMPLOYMENT OPPORTUNITIES OR ECONOMIC EXPANSION, AND (V) impact on affected parties; and, in furtherance of such duties, may examine other issues it deems appropriate. For purpose of this article, the term agency shall mean any department, board, bureau, commission, division, office, council, committee or officer of the state or a public benefit corporation or public authority at least one of whose members is appointed by the governor.

4. THE COMMISSION SHALL COMPLY WITH AND FULFILL ITS OBLIGATIONS PURSUANT TO SECTION FIFTY-ONE-A OF THIS CHAPTER. FURTHERMORE, THE COMMISSION SHALL REVIEW PROPOSED LEGISLATION TO ENSURE THAT ANY PROVISION FOR RULEMAKING THEREIN IS DRAFTED IN A MANNER SO AS TO MINIMIZE THE GRANT OF ADDITIONAL REGULATORY POWER TO STATE AGENCIES WHICH IS LIMITED TO THOSE NECESSARY FOR THE IMPLEMENTATION OF THE PROVISIONS OF THE PROPOSED LEGISLATION.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.