

1830--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. HEVESI -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Section 104 of the executive law is amended to read as
2 follows:
3 S 104. Departmental cooperation ON RULEMAKING, INCREASING REGULATORY
4 FLEXIBILITY AND REDUCING REGULATORY BURDENS. 1. IT IS DECLARED TO BE
5 THE POLICY OF THIS STATE TO PROTECT AND ENCOURAGE JOBS, INVESTMENT AND
6 ECONOMIC ACTIVITY AND TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE
7 BY ADMINISTERING ALL REGULATORY REQUIREMENTS IMPOSED BY THE STATE IN A
8 FAIR AND REASONABLE MANNER DESIGNED TO AVOID UNDUE DELETERIOUS ECONOMIC
9 EFFECTS OR OVERLY BURDENSOME IMPACTS OF RULES UPON PERSONS AND THE ECON-
10 OMY.
11 2. The secretary of state may advise with the several departments,
12 boards, bureaus, officers, authorities, commissions and other agencies
13 of the state which are authorized by statute to issue codes, rules or
14 regulations, to the end that the same may, so far as possible, be
15 uniform in style and form, be properly numbered and captioned and be
16 free from matter which is obsolete.
17 3. THE SECRETARY OF STATE SHALL PROVIDE OVERSIGHT OVER THE REGULATORY
18 PROCESSES OF STATE AGENCIES, PUBLIC AUTHORITIES, AND COMMISSIONS THROUGH
19 THE REVIEW, ANALYSIS, AND REVISION OF PROPOSED AND EXISTING RULES IN A
20 MANNER THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING ACTIONS:
21 A. ENSURING THAT REGULATIONS FAITHFULLY EXECUTE THE LAWS OF THE STATE
22 WITHOUT UNDULY BURDENING THE STATE'S ECONOMY AND REGULATED PARTIES AND

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

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1 WITHOUT IMPOSING DELETERIOUS COSTS AND REQUIREMENTS ON THE BUSINESSES,
2 LOCAL GOVERNMENTS AND CITIZENS OF THIS STATE;

3 B. CONDUCTING AN ASSESSMENT OR REQUIRING THE ASSESSMENT OF THE CUMULA-
4 TIVE IMPACT OF RULES ON THE STATE'S POLICIES, PROGRAMS AND REGULATIONS
5 IN THE AREAS OF ENERGY, ECONOMIC DEVELOPMENT, AND THE ENVIRONMENT;

6 C. CONDUCTING AN ASSESSMENT OR REQUIRING THE ASSESSMENT OF THE CUMULA-
7 TIVE IMPACT OF THE STATE'S ENVIRONMENTAL POLICIES, PROGRAMS, AND REGU-
8 LATIONS ON THE STATE'S ECONOMIC DEVELOPMENT AND ON THE IMPLEMENTATION OF
9 THE STATE'S ENERGY POLICIES, PROGRAMS AND REGULATIONS;

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

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

17 F. PRESCRIBING METHODOLOGIES OR REQUIREMENTS THAT ALLOW REGULATED
18 PARTIES FLEXIBILITY AND THAT ENCOURAGE INNOVATION IN MEETING THE LEGIS-
19 LATIVE OR ADMINISTRATIVE REQUIREMENTS AND OBJECTIVES UNDERLYING RULES;

20 G. GIVING PREFERENCE TO THE LEAST COSTLY AND LEAST BURDENSOME REGULA-
21 TORY AND PAPERWORK REQUIREMENTS NEEDED TO ACCOMPLISH THE LEGISLATIVE AND
22 ADMINISTRATIVE OBJECTIVES UNDERLYING THE RULES;

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

25 I. CONVENING A NEGOTIATED RULEMAKING, WHEREIN INTERESTED PARTIES AND
26 THE INVOLVED AGENCY, PUBLIC AUTHORITY, OR COMMISSION, WITH THE ASSIST-
27 ANCE OF A NEUTRAL FACILITATOR, NEGOTIATE TO REACH CONSENSUS ON THE TERMS
28 OF RULES.

29 4. THE SECRETARY OF STATE ANNUALLY SHALL PUBLISH ON ITS WEBSITE AND
30 SUBMIT TO THE GOVERNOR, THE DIRECTOR OF STATE OPERATIONS, THE DIRECTOR
31 OF THE DIVISION OF THE BUDGET, INVOLVED STATE AGENCIES, PUBLIC AUTHORI-
32 TIES, AND/OR COMMISSIONS, THE SPEAKER OF THE ASSEMBLY, THE MINORITY
33 LEADER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE
34 MINORITY LEADER OF THE SENATE, THE CHAIR OF THE ASSEMBLY OVERSIGHT,
35 ANALYSIS AND INVESTIGATIONS COMMITTEE, THE RANKING MEMBER OF THE ASSEM-
36 BLY OVERSIGHT, ANALYSIS AND INVESTIGATIONS COMMITTEE, THE CHAIR OF THE
37 SENATE INVESTIGATIONS AND GOVERNMENT OPERATIONS COMMITTEE, AND THE RANK-
38 ING MINORITY MEMBER OF THE SENATE INVESTIGATIONS AND GOVERNMENT OPER-
39 ATIONS COMMITTEE A REPORT WITH RECOMMENDATIONS, REGARDING:

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

45 B. THE SIMPLIFICATION OF REGULATIONS AND THE REGULATORY PROCESSES.

46 5. EACH STATE AGENCY, PUBLIC AUTHORITY, OR COMMISSION, WHICH IS THE
47 SUBJECT OF THE ANNUAL REPORT REQUIRED BY SUBDIVISION FOUR OF THIS
48 SECTION, SHALL PROPOSE REGULATIONS OR REVISIONS TO ITS RULES AND POLI-
49 CIES TO INCORPORATE THE FINDINGS AND RECOMMENDATIONS OF THE REPORT
50 REQUIRED BY SUCH SUBDIVISION.

51 S 2. This act shall take effect immediately.