

5657--A

2013-2014 Regular Sessions

I N S E N A T E

May 31, 2013

Introduced by Sens. GALLIVAN, MARCHIONE, CARLUCCI, BALL, GRISANTI, VALE-SKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Commerce, Economic Development and Small Business in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state administrative procedure act, in relation to establishing a task force for the review of the state administrative procedure act

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

1 Section 1. The state administrative procedure act is amended by adding
2 a new article 6 to read as follows:

3 ARTICLE 6

4 TASK FORCE FOR REVIEW OF THE STATE ADMINISTRATIVE PROCEDURE ACT
5 SECTION 601. LEGISLATIVE INTENT.

6 602. TASK FORCE FOR THE REVIEW OF THE STATE ADMINISTRATIVE
7 PROCEDURE ACT.

8 S 601. LEGISLATIVE INTENT. THE STATE ADMINISTRATIVE PROCEDURE ACT WAS
9 FIRST ENACTED IN NINETEEN HUNDRED SEVENTY-FIVE TO CREATE A UNIFORM,
10 CONSISTENT PROCESS TO ADMINISTRATIVE RULEMAKING, ADJUDICATION AND
11 LICENSING. SINCE NINETEEN HUNDRED SEVENTY-FIVE THIS ACT HAS BEEN AMENDED
12 NUMEROUS TIMES BUT THERE HAS NEVER BEEN A COMPREHENSIVE REVIEW OF THE
13 EFFICACY OF THE ACT IN ITS ENTIRETY. THE LEGISLATURE HEREBY FINDS AND
14 DECLARES THAT IT IS IN THE PUBLIC INTEREST TO HAVE SUCH A COMPREHENSIVE
15 REVIEW TO ENSURE THAT ADMINISTRATIVE RULEMAKING, ADJUDICATION AND
16 LICENSING IS CONSISTENT, UNIFORM, AND NOT UNNECESSARILY BURDENSOME FOR
17 REGULATED ENTITIES.

18 S 602. TASK FORCE FOR THE REVIEW OF THE STATE ADMINISTRATIVE PROCEDURE
19 ACT. 1. THERE SHALL BE ESTABLISHED A TASK FORCE FOR THE REVIEW OF THE
20 STATE ADMINISTRATIVE PROCEDURE ACT ("TASK FORCE"). SUCH TASK FORCE SHALL

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

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1 EXAMINE, EVALUATE AND MAKE RECOMMENDATIONS CONCERNING THE EFFICIENCY OF
2 THE RULEMAKING PROCESS, WHETHER THIS ACT ENSURES THE ESTABLISHMENT OF
3 CONSISTENT, UNIFORM RULES AND WHETHER THE STATUTORY PROCESS RESULTS IN
4 RULES, REGULATIONS AND LICENSES THAT ARE OVERLY BURDENSOME ON REGULATED
5 ENTITIES.

6 2. THE TASK FORCE SHALL BE COMPOSED OF NINE MEMBERS APPOINTED AS
7 FOLLOWS: THREE MEMBERS APPOINTED BY THE GOVERNOR, AT LEAST ONE OF WHOM
8 SHALL BE CHOSEN FROM AMONG THE COMMISSIONERS OF AGENCIES WITH SIGNIF-
9 ICANT REGULATORY OVERSIGHT; TWO MEMBERS APPOINTED BY THE TEMPORARY PRES-
10 IDENT OF THE SENATE, ONE OF WHOM SHALL BE THE SENATE CHAIRPERSON OF THE
11 ADMINISTRATIVE REGULATORY REVIEW COMMISSION; TWO MEMBERS APPOINTED BY
12 THE SPEAKER OF THE ASSEMBLY, ONE OF WHICH SHALL BE THE ASSEMBLY CHAIR-
13 PERSON OF THE ADMINISTRATIVE REGULATORY REVIEW COMMISSION; ONE MEMBER
14 APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND ONE MEMBER APPOINTED
15 BY THE MINORITY LEADER OF THE ASSEMBLY. THE GOVERNOR SHALL DESIGNATE THE
16 CHAIR OF THE TASK FORCE. ALL APPOINTED MEMBERS OF THE TASK FORCE SHALL
17 HAVE EXPERIENCE IN REGULATORY OR ADMINISTRATIVE LAW, OR EXPERIENCE IN A
18 FIELD REGULATED BY MULTIPLE STATE AGENCIES, OR A REPRESENTATIVE OF
19 ORGANIZED LABOR IN A REGULATED FIELD.

20 3. THE TASK FORCE SHALL HOLD PUBLIC HEARINGS THROUGHOUT THE STATE AND
21 SHALL HAVE THE POWERS OF A LEGISLATIVE COMMITTEE PURSUANT TO THE LEGIS-
22 LATIVE LAW. THE TASK FORCE SHALL CONSULT WITH MEMBERS OF THE SMALL
23 BUSINESS AND AGRICULTURAL COMMUNITIES AND REGULATED ENTITIES AND CITI-
24 ZENS FROM EVERY REGION OF THE STATE.

25 4. ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, THE TASK
26 FORCE SHALL PROVIDE A WRITTEN REPORT TO THE GOVERNOR, THE TEMPORARY
27 PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEAD-
28 ER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, AND THE CHAIR-
29 PERSONS OF THE ADMINISTRATIVE REGULATORY REVIEW COMMISSION. THE REPORT
30 SHALL INCLUDE, BUT NOT BE LIMITED TO, RECOMMENDATIONS FOR SPECIFIC
31 AMENDMENTS TO THIS ACT AS WELL AS ANY ADDITIONAL RECOMMENDATIONS THE
32 TASK FORCE DEEMS RELEVANT. ANY RECOMMENDATIONS SHALL INCORPORATE THE
33 FOLLOWING PRINCIPLES: (A) AGENCIES SHOULD CONDUCT RISK ASSESSMENTS BASED
34 ON THE BEST-AVAILABLE DATA AND SCIENCE; (B) AGENCIES SHOULD ENSURE THAT
35 A FULL COST BENEFIT ANALYSIS IS UNDERTAKEN FOR MAJOR REGULATIONS; (C)
36 THE RULEMAKING PROCESS MUST INCLUDE AN OBJECTIVE, TRANSPARENT PEER AND
37 PUBLIC REVIEW; (D) REGULATIONS SHOULD BE SUBJECT TO LEGISLATIVE AND
38 JUDICIAL OVERSIGHT AND REVIEW; AND (E) AGENCIES SHOULD PRIORITIZE
39 COMPLIANCE OVER ENFORCEMENT.

40 5. THE MEMBERS OF THE TASK FORCE SHALL RECEIVE NO COMPENSATION FOR
41 THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES
42 INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

43 6. TO THE MAXIMUM EXTENT FEASIBLE, THE TASK FORCE SHALL BE ENTITLED TO
44 REQUEST AND RECEIVE AND SHALL UTILIZE AND BE PROVIDED WITH SUCH FACILI-
45 TIES, RESOURCES AND DATA OF ANY COURT, DEPARTMENT, DIVISION, BOARD,
46 BUREAU, COMMISSION, OR AGENCY OF THE STATE OR ANY POLITICAL SUBDIVISION
47 OR PUBLIC AUTHORITY THEREOF AS IT MAY REASONABLY REQUEST TO CARRY OUT
48 PROPERLY ITS POWERS AND DUTIES PURSUANT TO THIS SECTION.

49 S 2. This act shall take effect immediately.