

401

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

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Introduced by Sens. GALLIVAN, CARLUCCI, FELDER, MARCHIONE, VALESKY --
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
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 ASSEM-
BLY, 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
21 EXAMINE, EVALUATE AND MAKE RECOMMENDATIONS CONCERNING THE EFFICIENCY OF
22 THE RULEMAKING PROCESS, WHETHER THIS ACT ENSURES THE ESTABLISHMENT OF

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

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1 CONSISTENT, UNIFORM RULES AND WHETHER THE STATUTORY PROCESS RESULTS IN
2 RULES, REGULATIONS AND LICENSES THAT ARE OVERLY BURDENSOME ON REGULATED
3 ENTITIES.

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

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

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

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

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

47 S 2. This act shall take effect immediately.