

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.