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

401--A

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

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 -- 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:

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

ARTICLE 6

TASK FORCE FOR REVIEW OF THE STATE ADMINISTRATIVE PROCEDURE ACT

SECTION 601. LEGISLATIVE INTENT.

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

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

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

LBD01049-02-6

S 602. TASK FORCE FOR THE REVIEW OF THE STATE ADMINISTRATIVE PROCEDURE ACT. 1. THERE SHALL BE ESTABLISHED A TASK FORCE FOR THE REVIEW OF THE STATE ADMINISTRATIVE PROCEDURE ACT ("TASK FORCE"). SUCH TASK FORCE SHALL EXAMINE, EVALUATE AND MAKE RECOMMENDATIONS CONCERNING THE EFFICIENCY OF THE RULEMAKING PROCESS, WHETHER THIS ACT ENSURES THE ESTABLISHMENT OF CONSISTENT, UNIFORM RULES AND WHETHER THE STATUTORY PROCESS RESULTS IN RULES, REGULATIONS AND LICENSES THAT ARE OVERLY BURDENSOME ON REGULATED ENTITIES.

2. THE TASK FORCE SHALL BE COMPOSED OF NINE MEMBERS APPOINTED AS FOLLOWS: THREE MEMBERS APPOINTED BY THE GOVERNOR, AT LEAST ONE OF WHOM SHALL BE CHOSEN FROM AMONG THE COMMISSIONERS OF AGENCIES WITH SIGNIFICANT REGULATORY OVERSIGHT; TWO MEMBERS APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, ONE OF WHOM SHALL BE THE SENATE CHAIRPERSON OF THE ADMINISTRATIVE REGULATORY REVIEW COMMISSION; TWO MEMBERS APPOINTED BY THE SPEAKER OF THE ASSEMBLY, ONE OF WHICH SHALL BE THE ASSEMBLY CHAIRPERSON OF THE ADMINISTRATIVE REGULATORY REVIEW COMMISSION; ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY. THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE TASK FORCE. ALL APPOINTED MEMBERS OF THE TASK FORCE SHALL HAVE EXPERIENCE IN REGULATORY OR ADMINISTRATIVE LAW, OR EXPERIENCE IN A FIELD REGULATED BY MULTIPLE STATE AGENCIES, OR A REPRESENTATIVE OF ORGANIZED LABOR IN A REGULATED FIELD.

3. THE TASK FORCE SHALL HOLD PUBLIC HEARINGS THROUGHOUT THE STATE AND SHALL HAVE THE POWERS OF A LEGISLATIVE COMMITTEE PURSUANT TO THE LEGISLATIVE LAW. THE TASK FORCE SHALL CONSULT WITH MEMBERS OF THE SMALL BUSINESS AND AGRICULTURAL COMMUNITIES AND REGULATED ENTITIES AND CITIZENS FROM EVERY REGION OF THE STATE.

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

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

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

S 2. This act shall take effect immediately.