

401--A

2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

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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 -- 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.

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

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

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

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

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

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

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

52 S 2. This act shall take effect immediately.