STATE OF NEW YORK

7805

IN SENATE

January 11, 2022

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the state administrative procedure act, in relation to public hearings on proposed rules; and to amend a chapter of the laws of 2021 amending the state administrative procedure act relating to public hearings on proposed rules, as proposed in legislative bills numbers S. 155 and A. 6267, in relation to the effectiveness thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 202-f of the state administrative procedure act, as added by a chapter of the laws of 2021 amending the state administrative procedure act relating to public hearings on proposed rules, as proposed in legislative bills numbers S. 155 and A. 6267, is amended to read as follows:

§ 202-f. Public hearings. 1. Whenever a public hearing is held on a proposed rule pursuant to this chapter, unless otherwise provided in law, an agency is authorized to utilize innovative techniques to enhance public participation in rule making, including but not limited to allowing the public to ask questions of agency personnel for a portion of such hearing, organizing such hearing as a roundtable discussion, scheduling an evening or weekend hearing, and using digital, broadcasting and/or teleconferencing technologies; provided, however, that no such innovative techniques shall be used in a manner which diminishes the ability which members of the public would otherwise have to comment on the proposed rule at a public hearing. Each agency listed in subdivision four of this section shall, and any other agency may, include in its annual report a description and analysis of its use of innovative techniques pursuant to this subdivision.

2. Except as provided in subdivision three of this section, [~~any agency listed in subdivision four of this section which receives~~] if the workers' compensation board, the state education department, the department of financial services, the department of labor, or the office of temporary and disability assistance receive a petition subscribed by not fewer than [~~one~~] five hundred [~~twenty-five~~] persons residing in this

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

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state**, or if the department of health or department of environmental conservation receive a petition subscribed by not fewer than seven hundred fifty persons residing in this state,** requesting a public hearing on any rule or rules which have been proposed by the agency, or have been described in the regulatory agenda submitted by the agency pursuant to section two hundred two-d of this article, **which an agency may require to be submitted on a petition form it has promulgated, such agency** shall hold at least one public hearing on the rule or rules; provided, however, that any such petition on a rule which has been proposed must be received by the agency not later than the [~~twentieth~~] **thirtieth** day before the last date for submission of comments. Any **rule issued by the department of health that is also subject to review by the public health and health planning commission shall not be subject to the provisions of this subdivision. Any** agency that receives a petition after the [~~twentieth~~] **thirtieth** day before the last date for submission of comments and any agency not listed in subdivision four of this section may elect to hold a hearing upon receipt of a petition. Due consideration shall be given to any request in a petition that a hearing be conducted in a particular region.

3. An agency shall not be required to hold a public hearing pursuant to subdivision two of this section (a) on a rule for which a hearing is required by law and has been scheduled or held; (b) on a consensus rule; [~~or~~] (c) on a rule defined in subparagraph (ii) of paragraph (a) of subdivision two of section one hundred two of this chapter**; or (d) a rule adopted on an emergency basis until a notice of proposed rulemaking has been issued**. When a public hearing has been requested for any rule described in a regulatory agenda, the agency shall not be required to schedule a public hearing until such time as the rule is proposed **pursuant to this chapter**.

4. The following agencies shall engage in the reporting provided for in subdivision one of this section and hold hearings as provided for in subdivisions two and three of this section: the workers' compensation board and the departments of education, environmental conservation, health, financial services, labor and family assistance.

§ 2. Section 3 of a chapter of the laws of 2021, as added by a chapter of the laws of 2021 amending the state administrative procedure act relating to public hearings on proposed rules, as proposed in legislative bills numbers S. 155 and A. 6267, is amended to read as follows:

§ 3. This act shall take effect on [~~the first of~~] January [~~next succeeding the date on which it shall have become a law~~] **1, 2023**, and shall expire and be deemed repealed on the thirty-first day of December of the second calendar year following such effective date, and shall apply to all rules for which a notice of proposed rule making or a description in a regulatory agenda is published during such time period.

§ 3. This act shall take effect immediately; provided that section one of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2021 amending the state administrative procedure act relating to public hearings on proposed rules, as proposed in legislative bills numbers S. 155 and A. 6267, takes effect.