

STATE OF NEW YORK

4170

2023-2024 Regular Sessions

IN ASSEMBLY

February 10, 2023

Introduced by M. of A. RA, PALMESANO, GANDOLFO, MILLER, MANKTELOW, MORI-NELLO, REILLY, BRABENEC, DURSO, TAGUE, BYRNES, J. M. GIGLIO, McDO-NOUGH, J. A. GIGLIO, HAWLEY, LEMONDES, JENSEN, SIMPSON, GOODELL, NORRIS, MIKULIN -- read once and referred to the Committee on Govern-mental Operations

AN ACT to amend the state administrative procedure act, in relation to a state agency adopting emergency regulations

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

1 Section 1. Paragraphs (a), (b) and (e) of subdivision 6 of section 202
2 of the state administrative procedure act, paragraph (a) as added by
3 chapter 17 of the laws of 1984 and paragraphs (b) and (e) as amended by
4 chapter 483 of the laws of 1988, are amended to read as follows:

5 (a) Notwithstanding any other provision of law, if an agency finds
6 that the immediate adoption of a rule is necessary for the preservation
7 of the public health, safety or general welfare and that compliance with
8 the requirements of subdivision one of this section would be contrary to
9 the public interest, the agency may dispense with all or part of such
10 requirements and adopt the rule on an emergency basis except when the
11 rule to be adopted is an existing adopted emergency regulation, in which
12 case the agency may not dispense with the requirements that such
13 readoption be approved by concurrent resolution of the senate and assem-
14 bly.

15 (b) Unless otherwise provided by law, such emergency rule shall not
16 remain in effect for longer than ninety days after being filed with the
17 secretary of state unless within such time the agency complies with the
18 requirements of subdivision one of this section and adopts the rule
19 pursuant to the provisions of subdivision five of this section,
20 provided, however, if an agency determines the readoption of such rule
21 is necessary on an emergency basis for the preservation of the public
22 health, safety and general welfare and compliance with the requirements

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

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1 of subdivision one of this section would be contrary to the public
2 interest, then the readoption of such rule shall require the approval of
3 the senate and assembly by concurrent resolution, and such emergency
4 rule is readopted prior to the expiration of such ninety day period such
5 readoption and any subsequent readoptions shall remain in effect for no
6 longer than [~~sixty~~] thirty days.

7 (e) If, prior to the expiration of a rule adopted pursuant to para-
8 graph (a) of this subdivision, the agency finds that the readoption of
9 such rule on an emergency basis is necessary for the preservation of the
10 public health, safety or general welfare, the agency may readopt the
11 rule on an emergency basis upon approval by the senate and assembly. No
12 readoption shall be filed with the secretary of state unless the agency
13 has submitted a notice of proposed rule making pursuant to subdivision
14 one of this section and such readoption has been approved by the senate
15 and the assembly. No second or subsequent readoption shall be filed with
16 the secretary of state unless the agency at the same time submits an
17 assessment of public comments prepared pursuant to paragraph (b) of
18 subdivision five of this section and such subsequent readoption has been
19 approved by the senate and assembly.

20 § 2. This act shall take effect immediately.