

STATE OF NEW YORK

7733

2023-2024 Regular Sessions

IN ASSEMBLY

June 6, 2023

Introduced by M. of A. STERN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state administrative procedure act, in relation to consideration of the potential impacts of a proposed rule on small businesses and local governments

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

1 Section 1. Subdivisions 2 and 6 of section 202-b of the state adminis-
2 trative procedure act, as amended by chapter 611 of the laws of 1996,
3 paragraphs (e) and (f) of subdivision 2 as relettered by chapter 16 of
4 the laws of 2020, the opening paragraph and paragraph (b) of subdivision
5 6 as amended by chapter 577 of the laws of 2019, are amended to read as
6 follows:

7 2. In proposing a rule for adoption or in adopting a rule on an emer-
8 gency basis, the agency shall issue a regulatory flexibility analysis
9 regarding the rule being proposed for adoption or the emergency rule
10 being adopted. A copy of such analysis and any finding, and reasons for
11 such finding, pursuant to subdivision three of this section, shall be
12 submitted to the governor, the temporary president of the senate, the
13 speaker of the assembly~~[-, the office of business permits and regulatory~~
14 ~~assistance]~~ and the administrative regulations review commission at the
15 time such analysis is submitted to the secretary of state for publica-
16 tion and, upon written request, a copy shall be sent to any other
17 person. Each regulatory flexibility analysis shall contain:

18 (a) a description of the types and an estimate of the number of small
19 businesses and local governments to which the rule will apply;

20 (b) a description of (i) the reporting, recordkeeping and other
21 compliance requirements of the rule, and (ii) the kinds of professional
22 services that a small business or local government is likely to need in
23 order to comply with such requirements;

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

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1 (c) an estimate of the initial capital costs and an estimate of the
2 annual cost of complying with the rule, with an indication of any likely
3 variation in such costs for small businesses or local governments of
4 different types and of differing sizes;

5 (d) an assessment of the economic and technological feasibility of
6 compliance with such rule by small businesses and local governments;

7 (e) an indication of how the rule is designed to minimize any compli-
8 ance requirements or any adverse economic impact of such rule on small
9 businesses and local governments, including information regarding wheth-
10 er the approaches suggested in subdivision one of this section or other
11 similar approaches were considered and were incorporated into the rule,
12 or the reason or reasons why any such approaches were considered but
13 were not incorporated into the rule; and

14 (f) a statement indicating how the agency has complied with subdivi-
15 sion six of this section other than publication in the state register
16 and posting on the agency's website or with any other measures the agen-
17 cy is required by law to undertake, and listing or describing the
18 following actions taken or explaining why such action was deemed to be
19 infeasible or unnecessary: (i) any publication or publicization of
20 notices or alerts to small businesses or local governments regarding the
21 rule; (ii) any efforts to directly notify interested small businesses or
22 local governments and/or organizations representing their interests;
23 (iii) any special open conferences or webinars concerning the proposed
24 rule that were conducted for small businesses and local governments
25 affected by the rule; or (iv) any modification to agency procedural
26 rules or other actions undertaken to facilitate the receipt of informa-
27 tion and concerns regarding the rule from affected small businesses or
28 local governments.

29 6. When any rule is proposed for which a regulatory flexibility analy-
30 sis is required, the agency shall assure that it has actively solicited
31 the participation of small businesses and local governments in the rule
32 making through activities in addition to publication in the state regis-
33 ter and posting on the agency's website, such as:

34 (a) the publication of a general notice for the proposed rule making
35 in publications likely to be obtained by small businesses and local
36 governments of the types affected by the proposed rule, and/or publici-
37 zation of the intended rule making by means of any social media site or
38 online resource commonly used by small businesses or local governments
39 affected by the rule;

40 (b) the direct notification of interested small businesses and local
41 governments affected by the proposed rule or organizations representing
42 the interests of such entities;

43 (c) the conduct of special open conferences or webinars concerning the
44 proposed rule for small businesses and local governments affected by the
45 rule; and

46 (d) the adoption or modification of agency procedural rules to reduce
47 the cost or complexity of participation in the rule making by small
48 businesses and local governments.

49 § 2. This act shall take effect on the one hundred twentieth day after
50 it shall have become a law. Effective immediately, the addition, amend-
51 ment and/or repeal of any rule or regulation necessary for the implemen-
52 tation of this act on its effective date are authorized to be
53 made and completed on or before such effective date.