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:

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

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

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

(b) a description of (i) the reporting, recordkeeping and other compliance requirements of the rule, and (ii) the kinds of professional services that a small business or local government is likely to need in 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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(c) an estimate of the initial capital costs and an estimate of the annual cost of complying with the rule, with an indication of any likely variation in such costs for small businesses or local governments of different types and of differing sizes;

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

(e) an indication of how the rule is designed to minimize any **compliance requirements or any** adverse economic impact of such rule on small businesses and local governments, including information regarding whether the approaches suggested in subdivision one of this section or other similar approaches were considered **and were incorporated into the rule, or the reason or reasons why any such approaches were considered but were not incorporated into the rule**; and

(f) a statement indicating how the agency **has** complied with subdivision six of this section **other than publication in the state register and posting on the agency's website or with any other measures the agency is required by law to undertake, and listing or describing the following actions taken or explaining why such action was deemed to be infeasible or unnecessary: (i) any publication or publicization of notices or alerts to small businesses or local governments regarding the rule; (ii) any efforts to directly notify interested small businesses or local governments and/or organizations representing their interests; (iii) any special open conferences or webinars concerning the proposed rule that were conducted for small businesses and local governments affected by the rule; or (iv) any modification to agency procedural rules or other actions undertaken to facilitate the receipt of information and concerns regarding the rule from affected small businesses or local governments**.

6. When any rule is proposed for which a regulatory flexibility analysis is required, the agency shall assure that it has actively solicited the participation of small businesses and local governments in the rule making through activities in addition to publication in the state register and posting on the agency's website, such as:

(a) the publication of a general notice for the proposed rule making in publications likely to be obtained by small businesses and local governments of the types affected by the proposed rule**, and/or publicization of the intended rule making by means of any social media site or online resource commonly used by small businesses or local governments affected by the rule**;

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

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

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

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.