STATE OF NEW YORK

2249

2023-2024 Regular Sessions

IN SENATE

January 19, 2023

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

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 Assembly, do enact as follows:

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

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

(b) Unless otherwise provided by law, such emergency rule shall not remain in effect for longer than ninety days after being filed with the secretary of state unless within such time the agency complies with the requirements of subdivision one of this section and adopts the rule pursuant to the provisions of subdivision five of this section, provided, however, if **an agency determines the readoption of such rule is necessary on an emergency basis for the preservation of the public health, safety and general welfare and compliance with the requirements of subdivision one of this section would be contrary to the public interest, then the readoption of such rule shall require the approval of**

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

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the senate and assembly by concurrent resolution, and such emergency rule is readopted prior to the expiration of such ninety day period such readoption and any subsequent readoptions shall remain in effect for no longer than [~~sixty~~] **thirty** days.

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

§ 2. This act shall take effect immediately.