



Legislation Text

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Int. No. 2414

By Council Members Dromm and Yeger

A Local Law to amend the New York city charter, in relation to the city administrative procedure act

Be it enacted by the Council as follows:

Section 1. The lead-in paragraph of subdivision a of section 1042 of the administrative code of the city of New York, as added by a vote of the electors on November 8, 1988, is amended to read as follows:

a. Each agency shall publish by the first day of May annually, and shall transmit to the department of citywide administrative services, a regulatory agenda which shall contain:

§ 2. Subdivisions e, g and h of section 1043 of the New York city charter, subdivision e as amended by local law number 134 for the year 2013 and subdivisions g and h as redesignated by local law number 46 for the year 2010, are amended to read as follows:

e. Opportunity for and consideration of agency and public comment. The agency shall provide the public an opportunity to comment on the proposed rule (i) through outreach to the discrete regulated community or communities, if one exists, provided that this clause shall not be construed to create a private right of action to enforce this requirement; (ii) through submission of written data, views, or arguments, and (iii) at a public hearing unless it is determined by the agency in writing, which shall be published in the notice of proposed rulemaking in the City Record, that such a public hearing on a proposed rule would serve no public purpose. All written comments, [and] a summary of oral comments and an assessment of both oral and written comments concerning a proposed rule received from the public or any agency shall be placed in a public record and be made readily available to the public as soon as practicable and in any event within a reasonable time, not

to be delayed because of the continued pendency of consideration of the proposed rule. Such assessment shall be based upon any written comments submitted to the agency and any comments presented at any public hearing held on the proposed rule by the agency. The assessment shall contain (i) a summary and an analysis of the issues raised and significant alternatives suggested by any such comments; (ii) a statement of the reasons why any significant alternatives were not incorporated into the rule; and (iii) a description of any changes made in the rule as a result of such comments. If a comment has been submitted to an agency by e-mail, the agency shall electronically transmit an automated message confirming receipt of such comment. After consideration of the relevant comments presented and completion of the assessment required by this subdivision, the agency may adopt a final rule pursuant to subdivision f of this section; except that, other than a rule adopted pursuant to subdivision i of this section, no final rule shall be adopted by such board or commission unless its final language is posted in a prominent location on such agency's website and electronically transmitted to each member of such board or commission at least three calendar days, exclusive of Sundays, prior to such rule's adoption; provided, however, that revisions may be made to a final rule posted online and sent electronically in conformity with this subdivision at any time prior to the vote on such rule if such revisions are approved by all members of such board or commission by unanimous consent. Such final rule may include revisions of the proposed rule, and such adoption of revisions based on the consideration of relevant agency or public comments shall not require further notice and comment pursuant to this section. The mayor's office of operations shall electronically transmit a notice containing the agency's final rule to members of the public that opt-in to receive such notifications. This [paragraph] subdivision shall not be construed to create a private right of action to enforce its provisions. Inadvertent failure to comply with this [paragraph] subdivision shall not result in the invalidation of any rule.

g. Petition for rules. Any person may petition an agency to consider the adoption of any rule. Within sixty days after submission of a petition, the agency shall either deny such petition in writing, stating the reasons for such denial, or state the agency's intention to initiate rulemaking, by a specified date, concerning

the subject of such petition, and shall post on the agency's website the text of such petition and such denial or intention to initiate rulemaking. Each agency shall prescribe by rule the procedure for submission, consideration and disposition of such petitions. In the case of a board, commission or other body that is not headed by a single person, such rules of procedure may authorize such body to delegate to its chair the authority to reject such petitions. Such decision shall be within the discretion of the agency and shall not be subject to judicial review.

h. Maintenance of comments. Each agency shall establish a system for maintaining and making available for public inspection all written comments received in response to each notice of rulemaking. All comments received by an agency, including but not limited to comments submitted by mail, e-mail or on an agency website, shall be published on such agency's website no later than 60 days after such comment has been submitted.

§ 3. Section 1043 of the New York city charter is amended by adding new subdivisions j, k, l and m to read as follows:

j. Public comment database. The mayor's office of operations, in collaboration with the department of citywide administrative services, shall establish a publicly accessible electronic database which contains archived comments from members of the public and responses from agencies for each proposed rule.

k. Website. The mayor's office of operations, in collaboration with the department of citywide administrative services and the department of information technology and telecommunications, shall maintain a website to provide the public with information about the rulemaking of each agency, as well as an opportunity to comment on such rulemaking. Such website shall include notices of a public hearing for each proposed rule by an agency through which members of the public may submit comments electronically. A comment box shall accompany each such notice that allows members of the public to enter comments regarding a proposed rule. Such comment box shall be made available for the period of submission of written comments. Comments submitted by such comment box shall be transmitted to the agency that submitted the notice of a public hearing

no later than three days after the period for submission of written comments has expired, or as soon as practicable after receipt. The department of citywide administrative services shall post each regulatory agenda transmitted by an agency pursuant to subdivision a of section 1042 on the website required by this subdivision on the date such agenda is published in the City Record.

1. Reporting. Each quarter, each agency shall report on its rulemaking process, including the petitions and comments received for each rule, the number of public hearings or time periods between publication of a proposed rule and a public hearing that were waived by such agency, any inadvertent failures to comply with provisions of local law made by such agency, and the public notice and outreach conducted by such agency for each proposed rule. Such report shall specifically include, but need not be limited to, the following information for the preceding quarter:

1. The total number of days between the publication of a proposed rule and the adoption of such rule, and the date the final rule was adopted;

2. The total number of proposed rules for which substantive revisions were made;

3. The total number of petitions to consider the adoption of a rule received by such agency, the total number of petitions for which rulemaking was initiated, and the total number of petitions which were denied, including the reasons for such denial;

4. The total number of comments such agency received for each proposed rule;

5. The total number of times a public hearing for a proposed rule was waived;

6. The total number of times the required time period between publication of a proposed rule and a public hearing was waived;

7. The total number of emergency rules adopted;

8. A list of the media and civic organizations that received or requested notification of proposed rules;

9. Any records of outreach conducted to discrete regulated communities; and

10. The total number of instances in which such agency inadvertently failed to comply with provisions

of this chapter, pursuant to subdivision c of section 1042, paragraphs 2 and 4 of subdivision b of section 1043, paragraph 3 of subdivision d of section 1043, subdivision e of section 1043, paragraph 2 of subdivision f of section 1043, and subdivision d of section 1044.

m. Public outreach. Each agency shall submit to the department of citywide administrative services a plan to conduct outreach to notify members of the public of each proposed rule. Such plan shall include, but need not be limited to, such agency's methods of notifying members of the public of a proposed rule and the opportunity to comment, any additional outreach conducted to a discrete regulated community for such proposed rule, and a description of any materials developed or distributed regarding such proposed rule.

§ 4. This local law takes effect 120 days after it becomes law.

JEF
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