



NEW YORK STATE SENATOR

David Carlucci

Cuomo Administration Contacts Senate Chairman Carlucci and Administrative Regulations Review Commission

DAVID CARLUCCI March 16, 2011

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Governor Andrew Cuomo's Administration, in its quest to relieve businesses and local governments of burdensome administrative mandates, contacted Senator David Carlucci, Chairman of the New York State Senate's Administrative Regulations Review Commission (ARRC) for some hard-to-find information concerning the state's regulatory review history. The request was part of a large mandate relief effort being undertaken by the Governor's Mandate Relief Design Team. The Albany-Times Union recently reported that many members of the Mandate Relief Design Team were surprised to learn about a 2001 Senate majority law that allows localities to petition state agencies for alternatives to expensive regulatory mandates.

"The Cuomo Administration contacted staff at ARRC to find out if any Executive Law 101-B requests have been made by municipalities over the years," Carlucci said. "Under New York State Executive Law, Section 101-B municipal corporations may, by resolution adopted by its governing body, apply to state agencies for suspension of agency rules for the balance of the municipal corporation's current fiscal year," Carlucci said.

Staffs at the Legislature's Administrative Regulations Review Commission believe a few requests were made during the 1970's but no requests have been made from 1980 to the present time. ARRC staffs admit the process set forth by Executive Law is difficult and that many municipalities do not have the legal staff or expertise to apply for mandate relief, especially when they are up against a team of legal experts employed by government agencies. Even if a municipality was successful, the mandate relief would only last for the balance of the municipal corporation's current fiscal year.

"The governor's Mandate Relief Design Team is currently reviewing the State Administrative Procedure Act (SAPA) for legal means to help relieve businesses and local governments of burdensome rules or mandates," Carlucci said. "While undertaking this important review, the Mandate Relief Design Team discovered SAPA Section 204-a, which is a 2001 Senator Mary Lou Rath/ARRC bill the Senate majority advocated for and was signed into law by then-governor Pataki," Carlucci said.

Under section 204-a of SAPA, a local government that shows it can accomplish the goals of an agency's regulation more efficiently (without harming public health, safety or general welfare) can get agency approval to use its alternative approach. According to the Albany-Times Union, only Erie County has sought relief under the act concerning rules administered by the Office of Children and Family Services that regulate services for domestic violence victims. The county's request is still pending and it is the only request made under SAPA 204-a to date.

"As a former town clerk, I know federal and state mandates are difficult but now that I have been elected to the Senate and named as Chair of ARRC, I can only sympathize with businesses and local governments as to how difficult it is to gain relief from onerous federal and state mandates once those mandates have been put into law," Carlucci said. "My sincere appreciation goes out to all the past legislators and ARRC chairman who have tried to

conquer this task. As current chair of ARRC, I will continue to work with the Senate majority and Governor Cuomo to try to find an avenue to provide meaningful regulatory and mandate relief,” Carlucci said.