

# VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

## CHAPTER 677

*An Act to amend and reenact §§ 2.2-4014, 2.2-4015 and 2.2-4033 of the Code of Virginia and to amend the Code of Virginia by adding in Title 30 a chapter numbered 8.1, consisting of sections numbered 30-73.1 through 30-73.4, relating to the Joint Commission on Administrative Rules.*

[S 337]

Approved April 6, 2002

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-4014, 2.2-4015 and 2.2-4033 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 30 a chapter numbered 8.1, consisting of sections numbered 30-73.1 through 30-73.4, as follows:**

§ 2.2-4014. Legislative review of proposed and final regulations.

A. After the legislative members *and the Joint Commission on Administrative Rules* have received copies of the Register pursuant to § 2.2-4033, the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable *or the Joint Commission on Administrative Rules* may meet and, during the promulgation or final adoption process, file with the Registrar and the promulgating agency an objection to a proposed or final adopted regulation. The Registrar shall publish any such objection received by him as soon as practicable in the Register. Within twenty-one days after the receipt by the promulgating agency of a legislative objection, that agency shall file a response with the Registrar, the objecting legislative committee *or the Joint Commission on Administrative Rules*, and the Governor. If a legislative objection is filed within the final adoption period, subdivision A 1 of § 2.2-4015 shall govern.

B. In addition, or as an alternative to, the provisions of subsection A, the standing committee of both houses of the General Assembly to which matters relating to the content are most properly referable *or the Joint Commission on Administrative Rules* may suspend the effective date of any portion or all of a final regulation with the Governor's concurrence. The Governor and (i) *the applicable standing committee of each house or (ii) the Joint Commission on Administrative Rules* may direct, through a statement signed by a majority of ~~the their respective members of the standing committee of each house~~ and by the Governor, that the effective date of a portion or all of the final regulation is suspended and shall not take effect until the end of the next regular legislative session. This statement shall be transmitted to the promulgating agency and the Registrar within the thirty-day adoption period, and shall be published in the Register.

If a bill is passed at the next regular legislative session to nullify a portion but not all of the regulation, then the promulgating agency (i) may promulgate the regulation under the provision of subdivision 4 A 4 a of § 2.2-4006, if it makes no changes to the regulation other than those required by statutory law, or (ii) shall follow the provisions of § 2.2-4007, if it wishes to also make discretionary changes to the regulation. If a bill to nullify all or a portion of the suspended regulation, or to modify the statutory authority for the regulation, is not passed at the next regular legislative session, then the suspended regulation shall become effective at the conclusion of the session, unless the suspended regulation is withdrawn by the agency.

C. A regulation shall become effective as provided in § 2.2-4015.

D. This section shall not apply to the issuance by the State Air Pollution Control Board of variances to its regulations.

§ 2.2-4015. Effective date of regulation; exception.

A. A regulation adopted in accordance with this chapter and the Virginia Register Act (§ 2.2-4100 et seq.), shall become effective at the conclusion of the thirty-day final adoption period provided for in subsection D of § 2.2-4013, or any other later date specified by the agency, unless:

1. A legislative objection has been filed in accordance with § 2.2-4014, in which event the regulation, unless withdrawn by the agency, shall become effective on a date specified by the agency that shall be after the expiration of the applicable twenty-one-day extension period provided in § 2.2-4014;

2. The Governor has exercised his authority in accordance with § 2.2-4013 to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn by the agency, shall become effective on a date specified by the agency that shall be after the period for which the Governor has provided for additional public comment;

3. The Governor and (i) *the appropriate standing committees of each house of the General Assembly* ~~has~~ *or (ii) the Joint Commission on Administrative Rules* have exercised their authority in accordance with subsection B of § 2.2-4014 to suspend the effective date of a regulation until the end of the next regular legislative session; or

4. The agency has suspended the regulatory process in accordance with subsection ~~K J~~ of § 2.2-4007, in which event the regulation, unless withdrawn by the agency, shall become effective on the date specified by the agency that shall be after the thirty-day public comment period required by subsection ~~K J~~ of § 2.2-4007.

B. This section shall not apply to the issuance by the State Air Pollution Control Board of variances to its regulations.

§ 2.2-4033. Distribution to library systems, Governor, Lieutenant Governor, Attorney General and legislative members.

The Register shall be distributed without charge to (i) each public library system in the Commonwealth or to the local governing body of any county without a public library system for public access ~~and~~, (ii) the Governor and the Lieutenant Governor, ~~and (iii) the Joint Commission on Administrative Rules.~~

Upon request, the Register shall be distributed without charge to (~~i~~ a) members of the Virginia Code Commission, (~~ii~~ b) each division of the Office of the Attorney General, and (~~iii~~ c) members currently serving in the General Assembly.

Moneys from the contingent fund of the appropriate house of the General Assembly shall be used to acquire and distribute the Register to each legislative member who requests the Register.

#### CHAPTER 8.1.

#### JOINT COMMISSION ON ADMINISTRATIVE RULES.

§ 30-73.1. *Joint Commission on Administrative Rules; purpose.*

*The Joint Commission on Administrative Rules (the "Commission") is established in the legislative branch of state government. The purpose of the Commission is to review (i) existing agency rules, regulations and practices and (ii) agency rules or regulations during the promulgation or final adoption process and make recommendations to the Governor and General Assembly.*

*As used in this chapter, unless the context requires a different meaning:*

*"Agency" means any authority, commission, instrumentality, officer, board or other unit of the state government empowered by the basic laws to make regulations or decide cases.*

*"Rule" or "regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, adopted by an agency in accordance with the authority conferred on it by applicable basic laws.*

§ 30-73.2. *Membership; terms; compensation.*

*A. The Commission shall be composed of twelve members as follows: five members of the Senate to be appointed by the Senate Committee on Privileges and Elections, and seven members of the House of Delegates to be appointed by the Speaker of the House, in accordance with the principles of proportional representation contained in the Rules of the House of Delegates. Six members shall constitute a quorum.*

*B. Members shall serve for terms coincident with their terms of office. Vacancies occurring other than by expiration of term shall be filled for the unexpired term. Whenever any member fails to retain his membership in the house from which he was appointed, his membership shall be vacated, and the vacancy shall be filled in the original manner. Subsequent appointments shall be made for similar terms, and vacancies shall be filled for the unexpired terms by the persons authorized to make the original appointments.*

*C. The members of the Commission shall elect a chairman and vice-chairman from among its members.*

*D. Members of the Commission shall receive compensation as provided in § 30-19.12 and shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825. However, all such expense payments shall come from existing appropriations to the Commission.*

§ 30-73.3. *Powers and duties of Commission.*

*A. The Commission shall have the powers and duties to:*

*1. Review proposed rules and regulations of any agency during the promulgation or final adoption process and determine whether or not the rule or regulation is authorized by statute and complies with legislative intent.*

*2. Review the impact of the rule or regulation on the economy, protection of the Commonwealth's natural resources pursuant to Article XI, Section 1 of the Constitution of Virginia, government operations of the State and localities, and affected persons.*

*3. File with the Registrar and the agency promulgating the regulation an objection to a proposed or final adopted regulation.*

*4. Suspend the effective date of any portion or all of a final regulation with the concurrence of the Governor as provided in subsection B of § 2.2-4014.*

*5. Make recommendations to the Governor and General Assembly for action based on its review of any proposed rule or regulation.*

*6. Review any existing agency rule, regulation, practice or the failure of an agency to adopt a rule and recommend to the Governor and the General Assembly that a rule be modified, repealed or*

*adopted.*

*B. If the Commission decides to seek suspension of a final rule or regulation, it shall deliver a statement to the Governor, signed by a majority of the members of the Commission, asking the Governor to concur in delaying the effective date of a portion or all of the final regulation until the end of the next regular legislative session as provided in §§ 2.2-4014 and 2.2-4015.*

*C. Based upon its review of (i) any final rule or regulation during the promulgation or final adoption process or (ii) any existing agency rule, regulation, practice or failure to adopt a rule or regulation, the Commission may prepare and arrange for the introduction of a bill to clarify the intent of the General Assembly when it enacted a law or to correct any misapplication of a law by an agency.*

*§ 30-73.4. Staff; cooperation and assistance.*

*Staff assistance shall be provided to the Commission by the Division of Legislative Services. Notwithstanding any other provision of law, no full-time equivalent position (FTE) shall be established in any agency, authority, institution, or commission to provide support or staff assistance to the Commission. However, nothing provided herein shall prohibit any agency from utilizing (i) existing staff, or (ii) appropriated or transferred funds for the purpose of providing assistance to the Commission. All agencies, authorities, and institutions of the Commonwealth shall cooperate and provide such assistance to the Commission as the Commission may request.*

**2. That the provisions of this act shall expire on June 30, 2004.**