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SENATE BILL NO. 442

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend and reenact §§ 2.2-4014 and 30-73.3 of the Code of Virginia, relating to suspension of regulations with the concurrence of the Governor.*

Patron—Wagner

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4014 and 30-73.3 of the Code of Virginia are amended and reenacted as follows:

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

A. After publication of the Register pursuant to § 2.2-4031, 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, *or after a rule or regulation is in effect*, 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 21 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 their respective members 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 30-day adoption period in a timely matter~~, 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 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 §§ 2.2-4007.01 through 2.2-4007.06, 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.

§ 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~~ *or after a regulation has become effective* to 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 Commonwealth~~ 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 (i) proposed rule or regulation or (ii) *final rule or regulation whether or not it has become effective*.

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 *suspended*, modified, repealed

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59 or adopted.

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

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