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HOUSE BILL NO. 1871

Offered January 11, 2017

Prefiled January 10, 2017

A BILL to amend and reenact § 30-73.3 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 40 of Title 2.2 a section numbered 2.2-4005.1, relating to Administrative Process Act; periodic review of regulations by the Joint Commission on Administrative Rules.

Patron—Miyares

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That § 30-73.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 40 of Title 2.2 a section numbered 2.2-4005.1 as follows:

§ 2.2-4005.1. Periodic review of proposed regulations by the Joint Commission on Administrative Rules.

A. Beginning January 1, 2019, and every year thereafter, the Joint Commission on Administrative Rules shall conduct a review of any proposed regulations or regulations in the final adoption process under this chapter. The purpose of this review shall be to assess whether any such regulations should be modified or the effective date of such regulation should be suspended in accordance with § 2.2-4014.

B. Beginning December 1, 2018, and every year thereafter on or before December 1, each agency promulgating a regulation shall submit a written report to the Joint Commission on Administrative Rules. Such report shall include a summary of the necessity for the regulation and a summary of any rule or regulation promulgated in the immediately preceding fiscal year, if any.

C. In the event that an agency fails to submit the report required pursuant to subsection B, the Joint Commission on Administrative Rules shall recommend to the Governor and the General Assembly that such agency's regulation be modified or suspended in accordance with § 2.2-4014.

§ 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 (i) is authorized by statute, (ii) complies with legislative intent, (iii) will cause a substantial reduction in private sector employment, and (iv) contains no mandate that improperly burdens businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected as defined in § 2.2-4007.04.

2. Review the effect of the rule or regulation on (i) the economy, (ii) protection of the Commonwealth's natural resources pursuant to Article XI, Section 1 of the Constitution of Virginia, (iii) government operations of the Commonwealth and localities, and (iv) affected persons and businesses.

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, or 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.

7. Beginning January 1, 2019, and every year thereafter, the Commission shall conduct a review of regulations in accordance with § 2.2-4005.1.

B. If the Commission finds that a rule or regulation improperly burdens businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, it shall report quarterly to the Governor and the General Assembly on any such regulation. The report shall contain a statement of any position taken by the Commission on any such regulation.

C. 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.

D. Based upon its review of (i) any final rule or regulation during the promulgation or final adoption

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59 process or (ii) any existing agency rule, regulation, or practice or failure to adopt a rule or regulation,
60 the Commission may prepare and arrange for the introduction of a bill to clarify the intent of the
61 General Assembly when it enacted a law or to correct any misapplication of a law by an agency.
62 **2. That general notice of the provisions of this act shall be posted on the Virginia Regulatory**
63 **Town Hall and published in the Virginia Register of Regulations by the Joint Commission on**
64 **Administrative Rules to advise agencies of their obligations under the provisions of this act.**