

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 678

An Act to amend and reenact §§ 2.2-4005 and 30-73.3 of the Code of Virginia, relating to periodic review of exemptions from the Administrative Process Act by the Joint Commission on Administrative Rules.

[H 1731]

Approved March 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4005 and 30-73.3 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-4005. Review of exemptions by Joint Legislative Audit and Review Commission; Joint Commission on Administrative Rules.

A. The Joint Legislative Audit and Review Commission shall conduct a review periodically of the exemptions authorized by this chapter. The purpose of this review shall be to assess whether there are any exemptions that should be discontinued or modified.

B. *Beginning November 1, 2017, the Joint Commission on Administrative Rules shall conduct a review of the exemptions authorized by this chapter on a schedule established by the Joint Commission on Administrative Rules. The purpose of this review shall be to assess whether any such exemption should be discontinued or modified.*

C. *Beginning August 1, 2017, each agency having an exemption authorized by this chapter, other than the courts, any agency of the Supreme Court, and any agency that by the Constitution of Virginia is expressly granted any of the powers of a court of record, shall submit a written report to the Joint Commission on Administrative Rules on or before August 1, 2017, which report shall include the date the exemption was enacted, a summary of the necessity for the exemption, and a summary of any rule or regulation adopted pursuant to the exemption in the immediately preceding two fiscal years, if any. Every two years thereafter, each such agency shall submit a written report to the Joint Commission on Administrative Rules that summarizes any rule or regulation adopted pursuant to the exemption in the immediately preceding two fiscal years, if any.*

D. *In the event that an agency having an exemption authorized by this chapter fails to submit the report required pursuant to subsection C, the Joint Commission on Administrative Rules shall recommend to the Governor and the General Assembly that such agency's exemption be discontinued.*

§ 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 November 1, 2017, the Joint Commission on Administrative Rules shall conduct an ongoing review of the exemptions authorized by the Administrative Process Act (§ 2.2-4000 et seq.) in accordance with subsections B and D of § 2.2-4005 on a schedule established by the Commission.*

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 process or (ii) any existing agency rule, regulation, or 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.

2. That general notice of the provisions of this act shall be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations by the Joint Commission on Administrative Rules to advise agencies having exemptions authorized by the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) of their obligations under the provisions of this act.