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HOUSE BILL NO. 2370**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on General Laws
on February 2, 2017)

(Patron Prior to Substitute—Delegate Head)

A BILL to amend and reenact § 2.2-4023.1 of the Code of Virginia, relating to Administrative Process Act; reconsideration or intermediate relief; suspension of effective date of a regulation or agency decision.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-4023.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-4023.1. Reconsideration.

A. A party may file a petition for reconsideration of an agency's final decision made pursuant to § 2.2-4020. The petition shall be filed with the agency not later than 15 days after service of the final decision and shall state the specific grounds on which relief is requested. The petition shall contain a full and clear statement of the facts pertaining to the reasons for reconsideration, the grounds in support thereof, and a statement of the relief desired.

If a person applying for a permit, certificate, or license from any agency or a person who has received written notice of a potential violation from an agency files a petition for reconsideration, a timely filed petition shall suspend the execution of the agency decision and toll the time for filing a notice of appeal under Rule 2A:2 of the Rules of Supreme Court of Virginia.

A timely filed petition for reconsideration by any other party shall not suspend the execution of the agency decision nor toll the time for filing a notice of appeal under Rule 2A:2 of the Rules of Supreme Court of Virginia, unless the agency provides for suspension of its decision when it grants a petition for reconsideration.

The failure to file a petition for reconsideration shall not constitute a failure to exhaust all administrative remedies.

B. The agency shall render a written decision on a party's timely petition for reconsideration within 30 days from receipt of the petition for reconsideration. Such decision shall (i) deny the petition, (ii) modify the case decision, or (iii) vacate the case decision and set a new hearing for further proceedings. The agency shall state the reasons for its action.

C. If reconsideration is sought for the decision of a policy-making board of an agency, such board may (i) consider the petition for reconsideration at its next regularly scheduled meeting; (ii) schedule a special meeting to consider and decide upon the petition within 30 days of receipt; or (iii) notwithstanding any other provision of law, delegate authority to consider the petition to either the board chairman, a subcommittee of the board, or the director of the agency that provides administrative support to the board, in which case a decision on the reconsideration shall be rendered within 30 days of receipt of the petition by the board.

D. Denial of a petition for reconsideration shall not constitute a separate case decision and shall not on its own merits be subject to judicial review. It may, however, be considered by a reviewing court as part of any judicial review of the case decision itself.

E. The agency may reconsider its final decision on its own initiative for good cause within 30 days of the date of the final decision. An agency may develop procedures for reconsideration of its final decisions on its own initiative.

F. Notwithstanding the provisions of this section, (i) any agency may promulgate regulations that specify the scope of evidence that may be considered by such agency in support of any petition for reconsideration and (ii) any agency that has statutory authority for reconsideration in its basic law may respond to requests in accordance with such law.