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HOUSE BILL NO. 118

Offered January 9, 2008

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A BILL to amend and reenact § 23-9.6:1 of the Code of Virginia, relating to academic freedom at four-year public institutions of higher education in the Commonwealth.

Patrons—Landes, Athey, Cole, Crockett-Stark, Gilbert, Massie and Sherwood

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:**1. That § 23-9.6:1 of the Code of Virginia is amended and reenacted as follows:**

§ 23-9.6:1. Duties of Council generally.

In addition to such other duties as may be prescribed elsewhere, the State Council of Higher Education shall:

1. Develop a statewide strategic plan that reflects the goals set forth in subsection B of § 23-38.88 for higher education in the Commonwealth, identifies a coordinated approach to such state and regional goals, and emphasizes the future needs for higher education in Virginia at both the undergraduate and the graduate levels, as well as the mission, programs, facilities and location of each of the existing institutions of higher education, each public institution's six-year plan, and such other matters as the Council deems appropriate. The Council shall revise such plans at least once every six years and shall submit such recommendations as are necessary for the implementation of the plan to the Governor and the General Assembly.

2. Review and approve or disapprove any proposed change in the statement of mission of any presently existing public institution of higher education and to define the mission of all public institutions of higher education created after the effective date of this provision. The Council shall, within the time prescribed in subdivision 1, make a report to the Governor and the General Assembly with respect to its actions hereunder. No such actions shall become effective until 30 days after adjournment of the session of the General Assembly next following the filing of such a report. Nothing contained in this provision shall be construed to authorize the Council to modify any mission statement adopted by the General Assembly, nor to empower the Council to affect, either directly or indirectly, the selection of faculty or the standards and criteria for admission of any public institution, whether related to academic standards, residence or other criteria; it being the intention of this section that faculty selection and student admission policies shall remain a function of the individual institutions.

3. Study any proposed escalation of any public institution to a degree-granting level higher than that level to which it is presently restricted and to submit a report and recommendation to the Governor and the General Assembly relating to the proposal. The study shall include the need for and benefits or detriments to be derived from the escalation. No such institution shall implement any such proposed escalation until the Council's report and recommendation have been submitted to the General Assembly and the General Assembly approves the institution's proposal.

4. Review and approve or disapprove all enrollment projections proposed by each public institution of higher education. The Council's projections shall be in numerical terms by level of enrollment and shall be used for budgetary and fiscal planning purposes only. The Council shall develop estimates of the number of degrees to be awarded by each institution and include those estimates in its reports of enrollment projections. The student admissions policies for the institutions and their specific programs shall remain the sole responsibility of the individual boards of visitors; however, all four-year institutions shall adopt dual admissions policies with the community colleges, as required by § 23-9.2:3.02.

5. Review and approve or disapprove all new academic programs which any public institution of higher education proposes. As used herein, "academic programs" include both undergraduate and graduate programs.

6. Review and require the discontinuance of any undergraduate or graduate academic program that is presently offered by any public institution of higher education when the Council determines that such academic program is (i) nonproductive in terms of the number of degrees granted, the number of students served by the program, the program's effectiveness, and budgetary considerations, or (ii) supported by state funds and is unnecessarily duplicative of academic programs offered at other public institutions of higher education in the Commonwealth. The Council shall make a report to the Governor and the General Assembly with respect to the discontinuance of any such academic program. No such discontinuance shall become effective until 30 days after the adjournment of the session of the General

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59 Assembly next following the filing of such report.

60 7. Review and approve or disapprove the creation and establishment of any department, school,
61 college, branch, division or extension of any public institution of higher education that such institution
62 proposes to create and establish. This duty and responsibility shall be applicable to the proposed creation
63 and establishment of departments, schools, colleges, branches, divisions and extensions, whether located
64 on or off the main campus of the institution in question. If any organizational change is determined by
65 the Council to be proposed solely for the purpose of internal management and the institution's curricular
66 offerings remain constant, the Council shall approve the proposed change. Nothing in this provision shall
67 be construed to authorize the Council to disapprove the creation and establishment of any department,
68 school, college, branch, division or extension of any institution that has been created and established by
69 the General Assembly.

70 8. Review the proposed closure of any academic program in a high demand or critical shortage area,
71 as defined by the Council, by any public institution of higher education and assist in the development of
72 an orderly closure plan, when needed.

73 9. Develop a uniform, comprehensive data information system designed to gather all information
74 necessary to the performance of the Council's duties. The system shall include information on
75 admissions, enrollments, self-identified students with documented disabilities, personnel, programs,
76 financing, space inventory, facilities and such other areas as the Council deems appropriate.

77 10. Develop in cooperation with institutions of higher education guidelines for the assessment of
78 student achievement. An institution shall use an approved program that complies with the guidelines of
79 the Council and is consistent with the institution's mission and educational objectives in the development
80 of such assessment. The Council shall report the institutions' assessments of student achievement in the
81 biennial revisions to the state's master plan for higher education.

82 11. Develop in cooperation with the appropriate state financial and accounting officials and to
83 establish uniform standards and systems of accounting, record keeping and statistical reporting for the
84 public institutions of higher education.

85 12. Review biennially and approve or disapprove all changes in the inventory of educational and
86 general space that any public institution of higher education may propose, and to make a report to the
87 Governor and the General Assembly with respect thereto. No such change shall be made until 30 days
88 after the adjournment of the session of the General Assembly next following the filing of such report.

89 13. Visit and study the operations of each of the public institutions of higher education at such times
90 as the Council shall deem appropriate and to conduct such other studies in the field of higher education
91 as the Council deems appropriate or as may be requested by the Governor or the General Assembly.

92 14. Provide advisory services to private, accredited and nonprofit institutions of higher education,
93 whose primary purpose is to provide collegiate or graduate education and not to provide religious
94 training or theological education, on academic, administrative, financial and space utilization matters.
95 The Council may also review and advise on joint activities, including contracts for services between
96 such public and private institutions of higher education or between such private institutions and any
97 agency of the Commonwealth or political subdivision thereof.

98 15. Adopt such rules and regulations as the Council believes necessary to implement all of the
99 Council's duties and responsibilities as set forth in this Code. The various public institutions of higher
100 education shall comply with such rules and regulations.

101 16. Issue guidelines consistent with the provisions of the federal Family Education Rights and
102 Privacy Act (FERPA), 20 U.S.C. § 1232g requiring public institutions of higher education to release a
103 student's academic and disciplinary record to a student's parent.

104 17. Develop and revise, as it deems necessary, in consultation with the Coordinator of Emergency
105 Management, a model institutional crisis and emergency management plan for the purpose of assisting
106 public and private two-year and four-year institutions of higher education in establishing, operating, and
107 maintaining emergency services and disaster preparedness activities.

108 18. Require that each institution of higher education formed, chartered, or established in the
109 Commonwealth after July 1, 1980, shall ensure the preservation of student transcripts in the event of
110 institutional closure or revocation of approval to operate in the Commonwealth of Virginia. An
111 institution may provide for the preservation of student transcripts by binding agreement with another
112 institution of higher education with which it is not corporately connected or in such other way as the
113 Council may authorize by regulation. In the event an institution closes, or has its approval to operate in
114 the Commonwealth revoked, the Council, through its Director, may take such action as is necessary to
115 secure and preserve the student transcripts until such time as an appropriate institution accepts all or
116 some of the transcripts. Nothing in this section shall be deemed to interfere with the right of a student
117 to his own transcripts; nor shall this section authorize disclosure of student records except as may
118 otherwise be authorized by law.

119 19. Develop, in cooperation with the institutions of higher education, the Board of Nursing, and the
120 Advisory Council on the Future of Nursing in Virginia, a strategic statewide plan to ensure an adequate

supply of nurses. The Council shall recommend to the Governor and the General Assembly such changes in public policy as may be necessary to meet the state's current and future need for essential nursing services.

20. Require the development and submission of articulation, transfer, and dual enrollment and admissions agreements between two- and four-year public institutions of higher education in Virginia, including programs for qualified students to be simultaneously accepted by a community college and a four-year public institution of higher education and, upon successful completion of an associate degree program from the community college, to be automatically enrolled in the four-year institution of higher education. Dual admissions agreements shall set forth (i) the obligations of the students accepted in such programs, including grade point average requirements, acceptable associate degree majors, and completion timetables; and (ii) the student's access to the privileges of enrollment in both institutions during the time enrolled in either institution. Such agreements shall be subject to the admissions requirements of the four-year institutions, except as provided in § 23-9.2:3.02.

21. Provide periodic updates of base adequacy funding guidelines adopted by the Joint Subcommittee Studying Higher Education Funding Policies for the various public institutions.

22. Require that each public institution of higher education in the Commonwealth biennially report to the Council the policies the institution has adopted to ensure academic freedom and the free exchange of ideas. The report shall address the specific policies adopted by the institution and may include any policies assuring: (i) the protection of academic freedom as stated in institutional statements and grievance procedures; (ii) the right of students and other members of the academic community to invite and hear speakers of their choice; (iii) that speakers on campus are not only protected from violence but are given an opportunity to be heard, and that those who exercise the right to call attention to grievances do not do so in ways that significantly impede the functions of the institution; (iv) that hiring, tenure, and promotion policies protect individuals from discrimination on grounds unrelated to competence for the position under consideration and inconsistent with the institution's stated hiring policies; (v) safeguards for freedom of the press for students; or (vi) that student codes of conduct do not restrict the content or manner of speech. The Council shall compile all reports and distribute the compilation to the General Assembly no later than December 31 of the last year of each biennium, as well as post such compilation on the Council's website.

In carrying out its duties and responsibilities, the Council, insofar as practicable, shall preserve the individuality, traditions and sense of responsibility of the respective institutions. The Council, insofar as practicable, shall seek the assistance and advice of the respective institutions in fulfilling all of its duties and responsibilities.