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**HOUSE BILL NO. 724**

Offered January 13, 2010

Prefiled January 12, 2010

*A BILL to amend and reenact § 2.2-2101 of the Code of Virginia, as it is currently effective and as it may become effective, and to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 22, consisting of sections numbered 2.2-2462 through 2.2-2464, relating to the Open Education Curriculum Board; established.*

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Referred to Committee on Science and Technology

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2101 of the Code of Virginia, as it is currently effective and as it may become effective, is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 24 of Title 2.2 an article numbered 22, consisting of sections numbered 2.2-2462 through 2.2-2464, as follows:**

§ 2.2-2101. (Effective until July 1, 2013) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.25; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23-231.31; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Commonwealth Competition Commission, who shall be appointed as provided for in § 2.2-2621; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the Council on Virginia's Future, who shall be appointed as provided for in § 2.2-2685; to members of the State Executive Council for Comprehensive Services for At-Risk Youth and Families, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Workforce Council, who shall be appointed as provided for in § 2.2-2669; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-306; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Open Education Curriculum Board, who shall be appointed as provided in § 2.2-2463; or to members of the Southwest Virginia Cultural Heritage Commission, who shall be appointed as provided in § 2.2-2533.

§ 2.2-2101. (Effective July 1, 2013) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the

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HB724

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81 Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Open  
82 Education Curriculum Board, who shall be appointed as provided in § 2.2-2463; or to members of the  
83 Southwest Virginia Cultural Heritage Commission, who shall be appointed as provided in § 2.2-2533.

84 Article 22.

85 Open Education Curriculum Board.

86 § 2.2-2462. Definitions.

87 "Open Education Consortium (Consortium)" means any entity whose purpose is to solicit and obtain  
88 rights to curriculum content from Virginia educators and others for the sole purpose of making such  
89 content available to educators and the public in a variety of authorized licensing arrangements.  
90 Consortiums shall be designated by the Open Education Curriculum Board and shall be subject to the  
91 requirements and regulations adopted by the Board.

92 "Tier I content" means educational content, professional development materials, assessment tools,  
93 and any other materials related to education instruction submitted to a Consortium and organized,  
94 edited, and aligned to Virginia SOL standards and offered to the general public for no cost under a  
95 Creative Commons license.

96 "Tier II content" means educational content, professional development materials, assessment tools,  
97 and any other materials related to education instruction submitted to a Consortium and organized,  
98 edited, and aligned to Virginia SOL standards and state assessment requirements based on  
99 research-supported scope and sequence. A Consortium may offer incentives to encourage the  
100 contribution of content, activities, lesson plans, and other educational materials. Tier II content may be  
101 licensed or sold for a reasonable fee.

102 "Tier III content" means educational content, professional development materials, assessment tools,  
103 and any other materials related to education instruction submitted to a Consortium and developed into  
104 commercial-grade textbooks and instructional materials suitable for state or local adoption. A  
105 Consortium may offer incentives to encourage the contribution of content, activities, lesson plans, and  
106 other educational materials. Tier III content may be licensed or sold for a reasonable fee, provided the  
107 cost shall not exceed the cost of comparable commercial products.

108 § 2.2-2463. Open Education Curriculum Board; membership; terms; quorum; compensation; staff.

109 A. The Open Education Curriculum Board ("the Board") is hereby established as a policy board  
110 within the meaning of § 2.2-2100 in the executive branch of state government. The purpose of the Board  
111 shall be to designate qualifying entities as Open Education Consortiums and set the standards for  
112 submission of materials and licensing of education curriculum developed by the Consortiums.

113 B. The Board shall consist of nine members to be appointed as follows: (i) one representative of an  
114 open education nonprofit entity, one representative of a textbook publisher that sells textbooks into the  
115 Commonwealth for use in elementary or secondary public schools, and one active elementary or  
116 secondary public school teacher, to be appointed by the Governor; (ii) three members of the House of  
117 Delegates to be appointed by the Speaker of the House of Delegates; (iii) one member of the Senate to  
118 be appointed by the Senate Committee on Rules; and the Superintendent of Public Instruction and  
119 Secretary of Technology, or their designees, who shall serve *ex officio* with voting privileges. Members  
120 of the Board shall be citizens of the Commonwealth.

121 C. After the initial staggering of terms, nonlegislative citizen members shall be appointed for terms  
122 of two years. Legislative members shall serve terms coincident with their terms of office. The Secretaries  
123 of Education and Technology shall serve a term coincident with their terms of office. Vacancies in the  
124 membership of the Board shall be filled in the same manner as the original appointments for the  
125 unexpired portion of the term.

126 D. The Board shall annually elect from among its members a chairman and a vice-chairman. The  
127 chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board. A quorum  
128 shall consist of five members.

129 E. For each day or part thereof spent in the performance of his duties, each member of the Board  
130 shall receive such compensation and reimbursement for his reasonable expenses as provided in  
131 § 2.2-2104.

132 F. The Board shall adopt rules and procedures for the conduct of its business, including a provision  
133 that Board members shall abstain or otherwise recuse themselves from voting on any matter in which  
134 they or a member of their immediate family have a personal interest in a transaction as defined in  
135 § 2.2-3101. The Board shall meet at least four times a year, and other meetings may be held at any  
136 time or place determined by the Board or upon call of the chairman or upon a written request to the  
137 chairman by any two members. Except for emergency meetings and meetings governed by § 2.2-3708  
138 requiring a longer notice, all members shall be duly notified of the time and place of any regular or  
139 other meeting at least 10 days in advance of such meeting.

140 G. Funding and staff for the Board shall be provided by the Department of Education.  
141 § 2.2-2464. Powers and duties of the Open Education Curriculum Board.

142 The Board shall:

143 1. Develop an application process for designating Open Education Consortiums in the  
144 Commonwealth;

145 2. Develop reporting requirements for Consortiums to monitor and ensure compliance with this  
146 article;

147 3. Report annually to the General Assembly and the Governor on activities of the Board and the  
148 Consortiums;

149 4. Advise the Governor and the General Assembly on open education policies that have the potential  
150 to reduce the cost of textbooks and educational materials in the Commonwealth while maintaining or  
151 adding value to the learning experience; and

152 5. Promulgate any regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)  
153 not inconsistent with the laws of Virginia necessary to carry out the provisions of this article.  
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