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HOUSE BILL NO. 1555

Offered January 9, 2013

Prefiled January 4, 2013

A BILL to amend and reenact §§ 22.1-25 and 22.1-212.23 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.5, consisting of sections numbered 22.1-212.28 through 22.1-212.33, relating to public education; Virginia State Virtual School.

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Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-25 and 22.1-212.23 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.5, consisting of sections numbered 22.1-212.28 through 22.1-212.33, as follows:

§ 22.1-25. How school divisions made.

A. The Board of Education shall divide the Commonwealth into school divisions of such geographical area and school-age population as will promote the realization of the standards of quality required by of Article VIII, Section 2 of the Constitution of Virginia, subject to the following conditions:

1. The school divisions as they exist on July 1, 1978, shall be and remain the school divisions of the Commonwealth until further action of the Board of Education taken in accordance with the provisions of this section except that when a town becomes an independent city, the town shall also become a school division.

2. No school division shall be divided or consolidated without the consent of the school board thereof and the governing body of the county or city affected or, if a town comprises the school division, of the town council.

3. No change shall be made in the composition of any school division if such change conflicts with any joint resolution expressing the sense of the General Assembly with respect thereto adopted at the session next following January 1 of the year in which the composition of such school division is to be changed.

4. *There shall be a statewide school division for the purposes of virtual education as provided in Article 1.5 (§ 22.1-212.28 et seq.) of Chapter 13 called the Virginia State Virtual School.*

B. Notice of any change in the composition of a school division proposed by the Board of Education shall be given by the Superintendent of Public Instruction, on or before January 1 of the year in which the composition of such school division is to be changed, to the clerks of the school board and of the governing body involved and to each member of the General Assembly.

C. Subject to the conditions set forth in subsection A, the Board of Education shall consider the following criteria in determining appropriate school divisions:

1. The school-age population of the school division proposed to be divided or consolidated.

2. The potential of the proposed school division to facilitate the offering of a comprehensive program for kindergarten through grade 12 at the level of the established standards of quality.

3. The potential of the proposed school division to promote efficiency in the use of school facilities and school personnel and economy in operation.

4. Anticipated increase or decrease in the number of children of school age in the proposed school division.

5. Geographical area and topographical features as they relate to existing or available transportation facilities designed to render reasonable access by pupils to existing or contemplated school facilities.

6. The ability of each existing school division to meet the standards of quality with its own resources and facilities or in cooperation with another school division or divisions if arrangements for such cooperation have been made.

D. Consistent with its authority pursuant to Article VIII, Section 5 of the Constitution of Virginia to designate school divisions in the Commonwealth of such geographic size and school-age population as will best promote the realization of the standards of quality, the Board shall promulgate regulations consistent with the provisions of this section that provide for a process whereby school divisions may submit proposals for the consolidation of school divisions. Such regulations shall provide for, among other things, a public notice and hearing process to be conducted by the applicant school divisions.

School divisions submitting proposals for consolidation shall include such information and data as

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59 may be required by the Board, including (i) the criteria set forth in subsection C; (ii) evidence of the
60 cost savings to be realized by such consolidation; (iii) a plan for the transfer of title to school board
61 property to the resulting combined school board governing the consolidated division; (iv) procedures and
62 a schedule for the proposed consolidation, including completion of current division superintendent and
63 school board member terms; (v) a plan for proportional school board representation of the localities
64 comprising the new school division, including details regarding the appointment or election processes
65 currently ensuring such representation and other information as may be necessary to evidence
66 compliance with federal and state laws governing voting rights; and (vi) evidence of local support for
67 the proposed consolidation.

68 For five years following completion of such consolidation, the computation of the state and local
69 share for an educational program meeting the standards of quality for school divisions resulting from
70 consolidations approved pursuant to this subsection shall be the lower composite index of local
71 ability-to-pay of the applicant school divisions, as provided in the appropriation act.

72 **§ 22.1-212.23. Definitions.**

73 As used in this article:

74 "Multidivision online provider" means (i) a private or nonprofit organization that enters into a
75 contract with a local school board to provide online courses or programs through that school board to
76 students who reside in Virginia both within and outside the geographical boundaries of that school
77 division; (ii) a private or nonprofit organization that enters into contracts with multiple local school
78 boards to provide online courses or programs to students in grades K through 12 through those school
79 boards; ~~or~~ (iii) a local school board that provides online courses or programs to students who reside in
80 Virginia but outside the geographical boundaries of that school division; *or (iv) a private or nonprofit*
81 *organization that enters into a contract with the Virginia State Virtual School, as established in Article*
82 *1.5 (§ 22.1-212.28 et seq.) of Chapter 13, to provide online courses and programs through the school to*
83 *students who reside in Virginia.* However, "multidivision online provider" ~~shall~~ does not include (a) a
84 local school board's online learning program in which fewer than 10 percent of the students enrolled
85 reside outside the geographical boundaries of that school division; (b) multiple local school boards that
86 establish joint online courses or programs in which fewer than 10 percent of the students enrolled reside
87 outside the geographical boundaries of those school divisions; (c) local school boards that provide online
88 learning courses or programs for their students through an arrangement with a public or private
89 institution of higher education; or (d) local school boards providing online courses or programs through
90 a private or nonprofit organization that has been approved as a multidivision online provider.

91 "Online course" means a course or grade-level subject instruction that (i) is delivered by a
92 multidivision online provider primarily electronically using the Internet or other computer-based methods
93 and (ii) is taught by a teacher primarily from a remote location, with student access to the teacher given
94 synchronously, asynchronously, or both.

95 "Virtual school program" means a series of online courses with instructional content that (i) is
96 delivered by a multidivision online provider primarily electronically using the Internet or other
97 computer-based methods; (ii) is taught by a teacher primarily from a remote location, with student
98 access to the teacher given synchronously, asynchronously, or both; (iii) is delivered as a part-time or
99 full-time program; and (iv) has an online component with online lessons and tools for student and data
100 management.

101 An online course or virtual school program may be delivered to students at school as part of the
102 regularly scheduled school day.

103 *Article 1.5.*

104 *Virginia State Virtual School.*

105 **§ 22.1-212.28. Virginia State Virtual School created.**

106 *There is hereby established a school division within the Commonwealth, hereafter referred to as the*
107 *Virginia State Virtual School, in order to provide full-time online educational programs and services to*
108 *school-age persons in the Commonwealth. The educational program provided by the Virginia State*
109 *Virtual School shall meet the constitutionally required Standards of Quality for kindergarten through*
110 *grade 12. The Virginia State Virtual School shall be free to persons living in the Commonwealth and*
111 *subject to compulsory school attendance pursuant to subsection A of § 22.1-254. The Board of*
112 *Education shall supervise and administer the Virginia State Virtual School.*

113 **§ 22.1-212.29. Powers and duties of Board.**

114 *The Board shall have the following powers and duties:*

- 115 *1. Establish rules, policies, and regulations for the governance of the Virginia State Virtual School;*
- 116 *2. Prescribe the criteria and procedures governing admissions to the school and student placement in*
117 *order to ensure the appropriateness of such placement and the instructional program of each student*
118 *admitted to the Virginia State Virtual School;*
- 119 *3. Prescribe and approve education programs for the Virginia State Virtual School that shall be*
120 *subject to the requirements of the Standards of Quality, including the Standards of Learning and the*

Standards of Accreditation;

4. Receive and disburse funds pursuant to § 22.1-212.33; and

5. Prepare and submit to the Governor and General Assembly, beginning December 1, 2014, an annual report detailing the curricula and other educational programs and services of the Virginia State Virtual School, including receipts and disbursements pertaining to the operation of the Virginia State Virtual School for each fiscal year ending on June 30.

§ 22.1-212.30. Persons eligible.

Any school-age person in the Commonwealth, as set by subsection A of § 22.1-254, shall be eligible for the educational services offered by the Virginia State Virtual School. Participation in the full-time educational program of the Virginia State Virtual School shall comply with all attendance requirements provided by law.

§ 22.1-212.31. Procedures for enrollment in the Virginia State Virtual School.

Any student shall be enrolled in the Virginia State Virtual School provided that his parent (i) makes, in his own discretion, the determination that access to the educational services at the Virginia State Virtual School is in the best interest of such student and (ii) completes the enrollment procedure through any multidivision online provider that provides online courses and virtual school programs through the Virginia State Virtual School.

§ 22.1-212.32. Multidivision online providers for the Virginia State Virtual School.

A. Multidivision online providers for the Virginia State Virtual School must meet the criteria pursuant to subsections A and B of § 22.1-212.24 to provide multidivision online courses and virtual school programs.

B. The Virginia State Virtual School may enter into contracts, consistent with the criteria approved by the Board of Education pursuant to subsections A and B of § 22.1-212.24, with any approved multidivision online provider. The Board of Education shall not limit, for any reason, the ability of any approved multidivision online provider to contract with the Virginia State Virtual School. Such contracts shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

C. Any approved multidivision online provider may provide online courses and virtual school programs through the Virginia State Virtual School. Any student may enroll with any approved multidivision online provider and the selection of an approved multidivision online provider shall be at the discretion of the parent or guardian and shall not be at the discretion of the Department of Education or the Board of Education once such provider has been approved. The Board of Education shall not show preference to any particular approved multidivision online provider and must promote all approved multidivision online providers equally to students seeking enrollment in the Virginia State Virtual School.

§ 22.1-212.33. Funding; calculation of state and local share for enrollment in the Virginia State Virtual School.

A. Effective starting with the 2014-2015 school year, any student who enrolls full time in the Virginia State Virtual School shall have his state and local share of Standards of Quality per pupil funding transferred from the school division of residence to the Virginia State Virtual School. The per pupil funding transferred shall consist of (i) the Standards of Quality per pupil amounts of the local school division of residence that are distributed on the basis of March 31 average daily membership, (ii) all federal funds described in § 22.1-88 directly associated with any pupil served by the Virginia State Virtual School and apportioned to the local school division of residence, and (iii) all funds sufficient for the reasonable special expenses directly related to the individual educational plan of any special education student, which may be assessed from the local school division of residence and transferred to the Virginia State Virtual School. No other state funds or local share of funds from the local school division of residence shall be provided to the Virginia State Virtual School.

The state share per pupil portion transferred shall be based on the composite index of the local school division of residence and shall include the per pupil share of state sales tax funding in basic aid. The local share per pupil portion transferred shall be based on the composite index of the local school division of residence and shall be further adjusted at 76 percent of the local share per pupil value.

The total state and local share funds transferred from the local school division of residence to the Virginia State Virtual School shall not exceed \$6,500 per pupil. If the per pupil transfer portion exceeds \$6,500, the local share per pupil transfer amount shall be reduced so that the total state and local share per pupil funds equal \$6,500.

B. No local share per pupil transfer shall be made from the local school division of residence to the Virginia State Virtual School for part-time non-public school students who enroll as provided in subsection N of § 22.1-253.13:2 or for any student enrolling on a part-time basis in the Virginia State Virtual School. The part-time enrollment provisions of subsection N of § 22.1-253.13:2 shall apply when nonpublic students enroll in the Virginia State Virtual School.

C. Students who enroll on a full-time basis in the Virginia State Virtual School shall not be counted

182 in the March 31 average daily membership or fall membership of their local school division of
183 residence. Such students shall not be counted in the required local effort of the local school division of
184 residence required to meet actual need.

185 D. The state and local share Standards of Quality per pupil funding transferred from the local
186 school division of residence shall be provided for eligible students based on their March 31 average
187 daily membership in the Virginia State Virtual School. The Department of Education shall pay the state
188 share per pupil funding directly to the Virginia State Virtual School semimonthly. Such state share per
189 pupil funding shall be based on the Standards of Quality per pupil funding enacted in the current
190 appropriation act.

191 The Superintendent of Public Instruction shall certify on a monthly basis each school year the
192 number of students enrolled in the Virginia State Virtual School on a full-time basis and the legal
193 residence of such enrolled students. Based upon such monthly certification, the Virginia State Virtual
194 School shall invoice the affected local school divisions of residence on a monthly basis in order for a
195 one-month portion of the local share per pupil amount to be transferred from the local school division
196 of residence to the Virginia State Virtual School. The local school division of residence shall transfer
197 the certified monthly local share per pupil payment to the Virginia State Virtual School within 30
198 calendar days of the receipt of the monthly invoice from the enrolling division. Such monthly local share
199 per pupil funding shall be based on the Standards of Quality per pupil funding enacted in the current
200 appropriation act. The monthly local share per pupil amount transferred shall be prorated for the
201 portion of the month that a student was not enrolled in the Virginia State Virtual School.

202 E. The parent of any student who intends to enroll his child full time in the Virginia State Virtual
203 School for the next school year must notify the school division of residence of his intent to do so by
204 April 1 each year, in order to be eligible to have the state and local share of Standards of Quality per
205 pupil funding transferred from the local school division of residence to the Virginia State Virtual School.

206 F. Students who are enrolled on a full-time basis in the Virginia State Virtual School shall be
207 excluded from the calculation of instructional costs of the Standards of Quality in each biennium.

208 G. The Virginia State Virtual School shall be responsible for all federal and state accountability
209 requirements applicable to any student who enrolls full time in the Virginia State Virtual School.