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HOUSE BILL NO. 113

Offered January 8, 2014

Prefiled December 16, 2013

A BILL to amend and reenact §§ 2.2-2101, as it is currently effective and as it shall become effective, 22.1-7.1, 22.1-25, and 23-14 of the Code of Virginia and to repeal Chapter 4.1 (§§ 22.1-27.1 through 22.1-27.6) of Title 22.1 of the Code of Virginia, relating to separation of powers; repeal of the Opportunity Educational Institution.

Patrons—Marshall, R.G. and Kory

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2101, as it is currently effective and as it shall become effective, 22.1-7.1, 22.1-25, and 23-14 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2101. (Effective until July 1, 2017) 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 Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Opportunity Educational Institution Board, who shall be appointed as provided for in § 22.1-27.1; 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 § 2.2-233; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; or to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735.

§ 2.2-2101. (Effective July 1, 2017) 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.

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HB113

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 77 Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to
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 79 members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; or to
 80 members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in
 81 § 2.2-2735.

82 **§ 22.1-7.1. Open school enrollment policy.**

83 A. Any local school board may establish and implement policies to provide for the open enrollment
 84 to any school, ~~not including a school previously in the school division that is currently under the~~
 85 ~~supervision of the Opportunity Educational Institution,~~ of any student residing within the school division
 86 upon the request of a parent or guardian. In developing such policies, a local school board may include
 87 the following conditions and limitations:

88 1. An application process whereby a parent or guardian indicates a school preference for purposes of
 89 his child attending a school in the child's school division but outside of the attendance area in which the
 90 child resides;

91 2. A requirement that the parent or guardian provide transportation for the student attending a school
 92 other than his assigned school;

93 3. A requirement that a student may be disqualified from attending a school other than his assigned
 94 school if he has been subject to a specified disciplinary action;

95 4. A prohibition on the recruitment of a student from one school to another by a school division
 96 employee;

97 5. A limitation on participation in certain athletic activities for a student who chooses to attend a
 98 school other than his assigned school;

99 6. A random, unbiased selection process in the event open enrollment requests exceed the capacity of
 100 a school;

101 7. A provision that a student shall be permitted to remain at the receiving school until the student
 102 has completed the highest grade level in the school; and

103 8. A preference to a student (i) who resides in a location that has been subject to a change in school
 104 attendance area during the previous two years, (ii) who has a sibling attending the receiving school, or
 105 (iii) whose parent or guardian is an employee of the receiving school.

106 B. A copy of the school division's policies for open enrollment, if any, shall be posted on the
 107 division's website and shall be available to the public upon request.

108 C. Nothing in this section shall interfere with a local school board's authority to adopt a pupil
 109 placement plan pursuant to § 22.1-79.

110 D. For the purposes of this section, "open enrollment" means a policy adopted and implemented by a
 111 local school board to allow any student to enroll in any school within the school division of attendance
 112 regardless of the location of the student's residence.

113 **§ 22.1-25. How school divisions made.**

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

118 1. The school divisions as they exist on July 1, 1978, shall be and remain the school divisions of the
 119 Commonwealth until further action of the Board of Education taken in accordance with the provisions of
 120 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 called the Opportunity Educational Institution to carry out the purposes set forth in Chapter 4-1 (§ 22.1-27.1 et seq.).~~

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 the authority of the Board 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, local school boards may submit proposals for the consolidation of school divisions to the Board of Education. Prior to the submission of a consolidation proposal, the submitting school board shall give notice to the public and shall conduct one or more public hearings.

School divisions submitting proposals for consolidation shall include such information and data as may be necessary to support their proposal, including (i) the criteria set forth in subsection C; (ii) evidence of the cost savings to be realized by such consolidation; (iii) a plan for the transfer of title to school board property to the resulting combined school board governing the consolidated division; (iv) procedures and a schedule for the proposed consolidation, including completion of current division superintendent and school board member terms; (v) a plan for proportional school board representation of the localities comprising the new school division, including details regarding the appointment or election processes currently ensuring such representation and other information as may be necessary to evidence compliance with federal and state laws governing voting rights; and (vi) evidence of local support for the proposed consolidation.

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

§ 23-14. Certain educational institutions declared governmental instrumentalities; powers vested in majority of members of board.

The College of William and Mary in Virginia, at Williamsburg; Richard Bland College of the College of William and Mary at Dinwiddie and Prince George; the rector and visitors of Christopher Newport University, at Newport News; Longwood University, at Farmville; the University of Mary Washington, at Fredericksburg; George Mason University, at Fairfax; the James Madison University, at Harrisonburg; Old Dominion University, at Norfolk; the State Board for Community Colleges, at Richmond; the Virginia Commonwealth University, at Richmond; the Radford University, at Radford; the Roanoke Higher Education Authority and Center; the rector and visitors of the University of Virginia, at Charlottesville; the University of Virginia's College at Wise; the Virginia Military Institute, at Lexington; the Virginia Polytechnic Institute and State University, at Blacksburg; the Virginia Schools for the Deaf and the Blind; the Virginia State University, at Petersburg; Norfolk State University, at Norfolk; the Woodrow Wilson Rehabilitation Center, at Fishersville; the Eastern Virginia Medical

182 School; the Southern Virginia Higher Education Center; the Southwest Virginia Higher Education
183 Center; the Institute for Advanced Learning and Research; *and* the New College Institute; ~~and the~~
184 ~~Opportunity Educational Institution~~ are hereby classified as educational institutions and are declared to
185 be public bodies and constituted as governmental instrumentalities for the dissemination of education.
186 The powers of every such institution derived directly or indirectly from this chapter shall be vested in
187 and exercised by a majority of the members of its board, and a majority of such board shall be a
188 quorum for the transaction of any business authorized by this chapter. Wherever the word "board" is
189 used in this chapter, it shall be deemed to include the members of a governing body designated by
190 another title.
191 **2. That Chapter 4.1 (§§ 22.1-27.1 through 22.1-27.6) of Title 22.1 of the Code of Virginia is**
192 **repealed.**