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HOUSE BILL NO. 1895

Offered January 14, 2015

Prefiled January 13, 2015

A BILL to amend the Code of Virginia by adding in Chapter 4.10 of Title 23 a subchapter numbered 2.1, consisting of sections numbered 23-38.90:1 through 23-38.90:4, relating to additional financial and administrative authority for certain public institutions of higher education.

Patrons—Cox, Fowler and Landes

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 4.10 of Title 23 a subchapter numbered 2.1, consisting of sections numbered 23-38.90:1 through 23-38.90:4, as follows:

SUBCHAPTER 2.1.**ADDITIONAL FINANCIAL AND ADMINISTRATIVE AUTHORITY FOR CERTAIN INSTITUTIONS.****§ 23-38.90:1. Additional financial and administrative authority for certain institutions.**

A. The board of visitors or other governing body of any public institution of higher education that entered in 2009 and successfully renewed in 2012 a memorandum of understanding with the appropriate Cabinet Secretary or Secretaries pursuant to § 23-38.90 and Chapters 824 and 829 of the Acts of Assembly of 2008 may exercise additional financial and administrative authority as set forth in §§ 23-38.90:3 and 23-38.90:4. Such additional authority shall become effective July 1, 2015, shall remain in effect for a period of five years, and shall be renewed automatically (i) unless the board or other governing body seeks to modify the scope of such authority and (ii) subject to such conditions as are set forth in this subchapter.

B. The board of visitors or other governing body of any public institution of higher education that entered, subsequent to 2009, a memorandum of understanding with the appropriate Cabinet Secretary or Secretaries pursuant to § 23-38.90 and Chapters 824 and 829 of the Acts of Assembly of 2008 may, no earlier than two years after the renewal of such memorandum of understanding, exercise additional financial and administrative authority as set forth in §§ 23-38.90:3 and 23-38.90:4. Such additional authority shall become effective the succeeding July 1, shall remain in effect for a period of five years, and shall be renewed automatically (i) unless the board or other governing body seeks to modify the scope of such authority and (ii) subject to such conditions as are set forth in this subchapter.

C. If the Governor makes a written determination that the institution is not in substantial compliance with the requirements of this subchapter, the Governor shall provide a copy of that written determination to the chairman of the board of visitors or other governing body of the public institution of higher education and to the members of the General Assembly, and the institution shall develop and implement a plan of corrective action, satisfactory to the Governor, for purposes of coming into substantial compliance with the requirements of this subchapter as soon as practicable and shall provide a copy of such corrective action plan to the members of the General Assembly. If, after a reasonable period of time after the corrective action plan has been implemented by the institution, the Governor or the General Assembly determines that the institution is not yet in substantial compliance with the requirements of this subchapter, the Governor or the General Assembly may revoke the additional authority granted pursuant to this subchapter. Upon such revocation, the affected public institution of higher education shall not be allowed to exercise any authority pursuant to this subchapter unless such authority is reinstated by the Governor or the General Assembly.

D. Nothing in this subchapter shall be construed to grant any public institution of higher education additional authority related to academic measures.

§ 23-38.90:2. Audits.

The Auditor of Public Accounts or his legally authorized representatives shall audit annually the accounts of each institution that meets the criteria set forth in subsection A of § 23-38.90:1 and shall distribute copies of each annual audit to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Pursuant to § 30-133, the Auditor of Public Accounts and his legally authorized representatives shall examine annually the accounts and books of each such institution, but the institution shall not be deemed to be a state or governmental agency, advisory agency, public body, or agency or instrumentality for purposes of Chapter 14 (§ 30-130 et seq.) of Title 30 except for those provisions in such chapter that relate to requirements for financial recordkeeping and bookkeeping. Each such institution shall be subject to periodic external review by the Joint Legislative and Audit Review Commission and such other reviews and audits as shall be required

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59 by law.

60 **§ 23-38.90:3. Information technology, procurement, and capital projects.**

61 The board of visitors or other governing body of any public institution of higher education that
62 meets the criteria set forth in subsection A of § 23.38.90:1 may, notwithstanding § 1.0 of the second
63 enactment of Chapters 824 and 829 of the Acts of Assembly of 2008 or any other provision of law to
64 the contrary, exercise additional operational authority in each of the three functional areas of
65 information technology, procurement, and capital projects, as set forth and subject to all conditions in
66 §§ 2.0, 3.0, and 4.0 of the second enactment of Chapters 824 and 829 of the Acts of Assembly of 2008,
67 except that:

68 1. Any effective dates therein are superseded by the provisions of § 23.38.90:1; and

69 2. The institution is not required to have a signed memorandum of understanding with the Secretary
70 of Administration regarding participation in the nongeneral fund decentralization program as provided
71 in subsection C of § 2.2-1132 in order to be eligible for additional capital project authority.

72 **§ 23-38.90:4. Financial operations.**

73 Notwithstanding any provision of law to the contrary, the board of visitors or other governing body
74 of any public institution of higher education that meets the criteria set forth in subsection A of
75 § 23.38.90:1 may exercise additional financial operational authority as set forth and subject to all
76 conditions in clauses IV through IX and clause XI of Exhibits F, L, and R of Chapters 933 and 943 of
77 the Acts of Assembly of 2006, as amended by Chapters 675 and 685 of the Acts of Assembly of 2009,
78 except that:

79 1. Any effective dates therein are superseded by the provisions of § 23.38.90:1;

80 2. The institution is not required to continue to deposit, for an initial period, tuition and all other
81 nongeneral funds with the State Treasurer by the same process that it would have been required to use
82 previously; and

83 3. The institution shall not (i) have sum sufficient appropriation authority for all nongeneral funds as
84 approved by the Governor and the General Assembly in the Commonwealth's biennial appropriations
85 process or (ii) be required to report to the Department of Planning and Budget (a) its estimate of the
86 nongeneral fund revenues for the sum sufficient appropriation to be included in the biennial Budget Bill
87 for each of the two years in the next biennium by November 1 of each odd-numbered year and the
88 estimate to be included in the Budget Bill for the first and second year of the then-current biennium by
89 November 1 of each even-numbered year or (b) its actual nongeneral fund revenues for each fiscal year
90 by July 31 of the subsequent fiscal year.