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SENATE BILL NO. 501

Offered January 13, 2016

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A *BILL to amend and reenact §§ 23-38.87:18, 23-38.103, 23-38.104, 23-45, 23-49.18, 23-49.22:2, 23-49.29, 23-50.11, 23-91.30, 23-91.41, 23-128, 23-135.13, 23-135.18, 23-155.8, 23-164.7, 23-165.7, 23-174.7, 23-189, and 23-218 of the Code of Virginia, relating to higher education; in-state tuition increases.*

Patron—Sturtevant

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 23-38.87:18, 23-38.103, 23-38.104, 23-45, 23-49.18, 23-49.22:2, 23-49.29, 23-50.11, 23-91.30, 23-91.41, 23-128, 23-135.13, 23-135.18, 23-155.8, 23-164.7, 23-165.7, 23-174.7, 23-189, and 23-218 of the Code of Virginia are amended and reenacted as follows:

§ 23-38.87:18. Tuition and fees.

A. The board of visitors of each of the Commonwealth's public institutions of higher education, or in the case of the Virginia Community College System the State Board for Community Colleges, shall continue to fix, revise from time to time, charge and collect tuition, fees, rates, rentals, and other charges for the services, goods, or facilities furnished by or on behalf of such institution and may adopt policies regarding any such service rendered or the use, occupancy, or operation of any such facility. *However, except with the prior statutory approval of the General Assembly, no increase in in-state tuition for undergraduate students shall exceed a percentage equal to twice the annual percentage increase, as determined by the State Council of Higher Education, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, from January 1 through December 31 of the year immediately preceding the affected year. The State Council of Higher Education shall determine and report the annual percentage increase for the preceding year to the board of visitors of each of the public institutions of higher education in the Commonwealth and the State Board for Community Colleges by September 1 of each year.*

B. Except to the extent included in the institution's six-year plan as provided in subsection C, if the total of an institution's tuition and educational and general fees for a fiscal year for Virginia students exceeds the difference for that fiscal year between (i) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23-38.87:13, and (ii) the sum of the tuition and educational and general fees for non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § 23-38.87:13, and its per student funding provided pursuant to § 23-38.87:14, the institution shall ~~forego~~ *forgo* new state funding at a level above the general funds received by the institution during the 2011-2012 fiscal year, at the discretion of the General Assembly, and shall be obligated to provide increased financial aid to maintain affordability for students from low-income and middle-income families. This limitation shall not apply to any portion of tuition and educational and general fees for Virginia students allocated to student financial aid, to an institution's share of state-mandated salary or fringe benefit increases, to increases with funds other than state general funds for the improvement of faculty salary competitiveness above the level included in the calculation in clause (i) of subsection B of § 23-38.87:13, to the institution's share of any of the targeted financial incentives described in § 23-38.87:16, to unavoidable cost increases such as operation and maintenance for new facilities and utility rate increases, or to other items directly attributable to an institution's unique mission and contributions.

C. Nothing in subsection B shall prohibit an institution from including in its six-year plan required by § 23-38.87:17 (i) new programs or initiatives including quality improvements or (ii) institution-specific funding based on particular state policies or institution-specific programs, or both, that will cause the total of the institution's tuition and educational and general fees for a fiscal year for Virginia students to exceed the difference for that fiscal year between (a) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23-38.87:13, and (b) the sum of the tuition and educational and general fees for the institution's non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § 23-38.87:13, and its per student funding provided pursuant to § 23-38.87:14.

§ 23-38.103. Tuition, fees, rentals, and other charges; moneys.

A covered institution shall fix, *subject to the limitations set forth in § 23-38.87:18*, revise from time

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59 to time, charge and collect tuition, rates, rentals, fees and other charges for the services, goods, or
60 facilities furnished by or on behalf of such institution, and may adopt policies regarding any such
61 service rendered or the use, occupancy, or operation of any such facility.

62 **§ 23-38.104. Financial operations of covered institutions.**

63 A. Subject to such accountability measures and audits as are provided in this subchapter or as may
64 otherwise be specifically made applicable by other law to institutions governed by this subchapter and
65 subject to the expressed terms of the management agreement described in § 23-38.88, a covered
66 institution may be permitted (i) to independently manage its operations and finances, including holding
67 and investing its tuition, fees, research funds, auxiliary enterprise funds, and all other public funds; (ii)
68 to create any and all financial policies deemed necessary to conduct its financial operations; (iii) to
69 adopt the budget for the institution; and (iv) to control the expenditures of all moneys generated or
70 received by the institution, including tuition, fees and other nongeneral fund revenue sources.

71 B. Subject to the express terms of the management agreement described in § 23-38.88, in managing
72 its operations and finances, the Board of Visitors of a covered institution, *subject to the limitations set*
73 *forth in § 23-38.87:18*, shall have sole authority to establish tuition, fee, room, board, and other charges
74 consistent with sum sufficient appropriation authority for all nongeneral funds as provided by the
75 Governor and the General Assembly in the Commonwealth's biennial appropriations authorization. The
76 Board of Visitors shall include the institution's commitment to provide need-based grant aid for middle-
77 and lower-income Virginia students in a manner that encourages student enrollment and progression
78 without respect to potential increases in tuition and fees. In the event that any or all of the nongeneral
79 funds are retained by the institution, the institution shall invest such funds consistent with an investment
80 policy established by the Board of Visitors and retain all income earned on such investments. In the
81 event that any or all of the nongeneral funds are held on behalf of the institution by the Commonwealth
82 of Virginia, the institution shall receive a share of the income earned by the Commonwealth on the
83 investment of such funds as provided in § 2.2-5005.

84 C. The management agreement described in § 23-38.88 shall include the quantification of cost
85 savings realized as a result of the additional operational flexibility provided pursuant to this subchapter.

86 D. A covered institution may enter into any contract which the institution determines to be necessary
87 or appropriate to place any bond or investment of the institution, in whole or in part, on the interest
88 rate, cash flow, or other basis desired by the institution, which contract may include, without limitation,
89 contracts commonly known as interest rate swap agreements, and futures or contracts providing for
90 payments based on levels of, or changes in, interest rates. These contracts or arrangements may be
91 entered into by the institution in connection with, incidental to, entering into, or maintaining any (i)
92 agreement that secures bonds, notes, or other obligations or (ii) investment or contract providing for
93 investment, otherwise authorized by law, including but not limited to § 23-38.105. These contracts and
94 arrangements may contain such payment, security, default, remedy, and other terms and conditions as
95 determined by the institution, after giving due consideration to the creditworthiness of the counterpart or
96 other obligated party, including any rating by any nationally recognized rating agency, and any other
97 criteria as may be appropriate. Any money set aside and pledged to secure payments of bonds, notes or
98 other obligations or any of the contracts entered into pursuant to this section may be pledged to and
99 used to service any of the contracts or agreements entered into pursuant to this section.

100 **§ 23-45. Board may fix tuition, fees and other charges.**

101 The board of visitors may fix, in their discretion, *subject to the limitations set forth in § 23-38.87:18*,
102 the rates charged the students of the colleges for tuition, fees and other necessary charges.

103 **§ 23-49.18. Board may fix tuition, fees and other necessary charges.**

104 The board of visitors may fix, in their discretion, *subject to the limitations set forth in §*
105 *23-38.87:18*, the rates charged the students of the University for tuition, fees and other necessary
106 charges.

107 **§ 23-49.22:2. Administration.**

108 The boards of visitors of Old Dominion University and Norfolk State University shall have the same
109 powers as to determining the fields of instruction to be offered; fixing tuition, fees, and other charges,
110 *subject to the limitations set forth in § 23-38.87:18*; appointing and removing administrative officers,
111 professors, and agents; and the making of rules and regulations as are now vested in their respective
112 boards. The boards shall have the power to grant appropriate diplomas or certificates upon the successful
113 completion of the curriculum of the center.

114 **§ 23-49.29. Rates, fees and charges.**

115 The board may fix, in its discretion, *subject to the limitations set forth in § 23-38.87:18*, the rates
116 charged the students of the University for tuition, fees and other necessary charges.

117 **§ 23-50.11. Tuition, fees and other charges.**

118 The board may fix, *subject to the limitations set forth in § 23-38.87:18*, the rates charged the
119 students of the University for tuition, fees and other necessary charges, and may fix and collect fees and
120 charges for services rendered by or through any facilities maintained or conducted by the corporation.

§ 23-91.30. Tuition, fees and other charges.

The board may fix, in its discretion, *subject to the limitations set forth in § 23-38.87:18*, the rates charged the students of the University for tuition, fees and other necessary charges.

§ 23-91.41. Rates, fees and charges.

The board may fix, in its discretion, *subject to the limitations set forth in § 23-38.87:18*, the rates charged the students of the University for tuition, fees and other necessary charges.

§ 23-128. Professors' salaries; fees of students.

Each professor shall receive a stated salary, to be fixed by the board of visitors. The board shall fix, *subject to the limitations set forth in § 23-38.87:18*, the fees to be charged for tuition of students, other than those allowed scholarships under § 23-31, which shall be a credit to the fund of the University.

§ 23-135.13. Administration.

The board of visitors of the Virginia Polytechnic Institute and State University shall have the same powers as to determining the fields of instruction to be offered; as to fixing tuition, fees and other charges, *subject to the limitations set forth in § 23-38.87:18*; as to the appointment and removal of administrative officers, professors, agents and servants, and the making of rules and regulations as are now vested in said board with respect to Virginia Polytechnic Institute and State University. The board of visitors shall have the power of granting appropriate diplomas or certificates of successful completion of the two-year curriculum of such division.

§ 23-135.18. Administration.

The board of visitors of the Virginia Polytechnic Institute and State University shall have the same powers as to determining the fields of instruction to be offered; as to fixing tuition, fees and other charges, *subject to the limitations set forth in § 23-38.87:18*; as to the appointment and removal of administrative officers, professors, agents and servants, and the making of rules and regulations as are now vested in said board with respect to Virginia Polytechnic Institute and State University. The board of visitors shall have the power of granting appropriate diplomas or certificates of successful completion of the two-year curriculum of such division.

§ 23-155.8. Board may fix rates, fees and charges.

The board may fix, *subject to the limitations set forth in § 23-38.87:18*, the rates charged the students of the University for tuition, fees and other necessary charges.

§ 23-164.7. Tuition, fees and charges.

The board may fix, *subject to the limitations set forth in § 23-38.87:18*, the rates charged the students of the University for tuition, fees and other necessary charges.

§ 23-165.7. Tuition, fees and charges.

The board may fix, *subject to the limitations set forth in § 23-38.87:18*, the rates charged the students of the University for tuition, fees and other necessary charges.

§ 23-174.7. Right to confer degrees; tuition, fees and other charges.

The board shall have the right to confer degrees, and may fix, *subject to the limitations set forth in § 23-38.87:18*, the rates charged the students of the University for tuition, fees and other necessary charges.

§ 23-189. Board may fix tuition, fees and other necessary charges.

The board may fix, *subject to the limitations set forth in § 23-38.87:18*, the rates charged the students of the University for tuition, fees and other necessary charges.

§ 23-218. Plan for comprehensive community colleges; appropriations; tuition fees and charges; grants or contributions.

A. The Board is authorized and directed to prepare and administer a plan providing standards and policies for the establishment, development and administration of comprehensive community colleges under its authority. It shall determine the need for comprehensive community colleges, develop a statewide plan for their location and a time schedule for their establishment. In the development of such plan, a principal objective shall be to provide and maintain a system of comprehensive community colleges through which appropriate educational opportunities and programs to accomplish the purposes set forth in subdivision (a) of § 23-214 shall be made available throughout the Commonwealth. In providing these offerings, the Board shall recognize the need for excellence in all curricula and shall endeavor to establish and maintain standards appropriate to the various purposes the respective programs are designed to serve.

B. The Board shall have the authority to control and expend funds appropriated by law, and to fix, *subject to the limitations set forth in § 23-38.87:18*, tuition fees and charges. The Board may establish policies and guidelines providing for reduced tuition rates at Virginia's community colleges for employees of the Virginia Community College System. The Board may exercise the powers conferred by Chapter 3 (§ 23-14 et seq.) as any other educational institution as defined in § 23-14.

C. The Board shall be authorized, with the approval of the Governor, to accept from any government or governmental department or agency or any public or private body or from any other source, grants or

182 contributions of money or property which the Board may use for or in aid of any of its purposes.