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HOUSE BILL NO. 1664

Offered January 11, 2017

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A BILL to amend and reenact §§ 2.2-3803 and 23.1-203 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-204.1, relating to the State Council of Higher Education for Virginia; collection and publication of wage data and the Virginia Longitudinal Data System.

Patron—Greason

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3803 and 23.1-203 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 23.1-204.1 as follows:

§ 2.2-3803. Administration of systems including personal information; Internet privacy policy; exceptions.

A. Any agency maintaining an information system that includes personal information shall:

1. Collect, maintain, use, and disseminate only that personal information permitted or required by law to be so collected, maintained, used, or disseminated, or necessary to accomplish a proper purpose of the agency;

2. Collect information to the greatest extent feasible from the data subject directly;

3. Establish categories for maintaining personal information to operate in conjunction with confidentiality requirements and access controls;

4. Maintain information in the system with accuracy, completeness, timeliness, and pertinence as necessary to ensure fairness in determinations relating to a data subject;

5. Make no dissemination to another system without (i) specifying requirements for security and usage including limitations on access thereto, and (ii) receiving reasonable assurances that those requirements and limitations will be observed. This subdivision shall not apply, however, to a dissemination made by an agency to an agency in another state, district or territory of the United States where the personal information is requested by the agency of such other state, district or territory in connection with the application of the data subject therein for a service, privilege or right under the laws thereof, nor shall this apply to information transmitted to family advocacy representatives of the United States Armed Forces in accordance with subsection N of § 63.2-1503;

6. Maintain a list of all persons or organizations having regular access to personal information in the information system;

7. Maintain for a period of three years or until such time as the personal information is purged, whichever is shorter, a complete and accurate record, including identity and purpose, of every access to any personal information in a system, including the identity of any persons or organizations not having regular access authority but excluding access by the personnel of the agency wherein data is put to service for the purpose for which it is obtained;

8. Take affirmative action to establish rules of conduct and inform each person involved in the design, development, operation, or maintenance of the system, or the collection or use of any personal information contained therein, about all the requirements of this chapter, the rules and procedures, including penalties for noncompliance, of the agency designed to assure compliance with such requirements;

9. Establish appropriate safeguards to secure the system from any reasonably foreseeable threat to its security; and

10. Collect no personal information concerning the political or religious beliefs, affiliations, and activities of data subjects that is maintained, used or disseminated in or by any information system operated by any agency unless authorized explicitly by statute or ordinance.

B. Every public body, as defined in § 2.2-3701, that has an Internet website associated with that public body shall develop an Internet privacy policy and an Internet privacy policy statement that explains the policy to the public. The policy shall be consistent with the requirements of this chapter. The statement shall be made available on the public body's website in a conspicuous manner. The Secretary of Technology or his designee shall provide guidelines for developing the policy and the statement, and each public body shall tailor the policy and the statement to reflect the information practices of the individual public body. At minimum, the policy and the statement shall address (i) what information, including personally identifiable information, will be collected, if any; (ii) whether any

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59 information will be automatically collected simply by accessing the website and, if so, what information;
60 (iii) whether the website automatically places a computer file, commonly referred to as a "cookie," on
61 the Internet user's computer and, if so, for what purpose; and (iv) how the collected information is being
62 used or will be used.

63 C. Notwithstanding the provisions of subsection A, the Virginia Retirement System may disseminate
64 information as to the retirement status or benefit eligibility of any employee covered by the Virginia
65 Retirement System, the Judicial Retirement System, the State Police Officers' Retirement System, or the
66 Virginia Law Officers' Retirement System, to the chief executive officer or personnel officers of the
67 state or local agency by which he is employed.

68 D. Notwithstanding the provisions of subsection A, the Department of Social Services may
69 disseminate client information to the Department of Taxation for the purposes of providing specified tax
70 information as set forth in clause (ii) of subsection C of § 58.1-3.

71 E. *Notwithstanding the provisions of subsection A, the State Council of Higher Education for*
72 *Virginia may disseminate student information to agencies acting on behalf or in place of the U.S.*
73 *government to gain access to data on wages earned outside the Commonwealth or through federal*
74 *employment, for the purposes of complying with § 23.1-204.1.*

75 **§ 23.1-203. Duties of Council.**

76 The Council shall:

77 1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of
78 § 23.1-1002 or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5
79 of § 23.1-309 for higher education in the Commonwealth, identifies a coordinated approach to such state
80 and regional goals, and emphasizes the future needs for higher education in the Commonwealth at both
81 the undergraduate and the graduate levels and the mission, programs, facilities, and location of each of
82 the existing institutions of higher education, each public institution's six-year plan, and such other
83 matters as the Council deems appropriate. The Council shall revise such plan at least once every six
84 years and shall submit such recommendations as are necessary for the implementation of the plan to the
85 Governor and the General Assembly.

86 2. Review and approve or disapprove any proposed change in the statement of mission of any public
87 institution of higher education and define the mission of all newly created public institutions of higher
88 education. The Council shall report such approvals, disapprovals, and definitions to the Governor and
89 the General Assembly at least once every six years. No such actions shall become effective until 30
90 days after adjournment of the session of the General Assembly next following the filing of such a
91 report. Nothing in this subdivision shall be construed to authorize the Council to modify any mission
92 statement adopted by the General Assembly or empower the Council to affect, either directly or
93 indirectly, the selection of faculty or the standards and criteria for admission of any public institution of
94 higher education, whether relating to academic standards, residence, or other criteria. Faculty selection
95 and student admission policies shall remain a function of the individual public institutions of higher
96 education.

97 3. Study any proposed escalation of any public institution of higher education to a degree-granting
98 level higher than that level to which it is presently restricted and submit a report and recommendation to
99 the Governor and the General Assembly relating to the proposal. The study shall include the need for
100 and benefits or detriments to be derived from the escalation. No such institution shall implement any
101 such proposed escalation until the Council's report and recommendation have been submitted to the
102 General Assembly and the General Assembly approves the institution's proposal.

103 4. Review and approve or disapprove all enrollment projections proposed by each public institution
104 of higher education. The Council's projections shall be organized numerically by level of enrollment and
105 shall be used solely for budgetary, fiscal, and strategic planning purposes. The Council shall develop
106 estimates of the number of degrees to be awarded by each public institution of higher education and
107 include those estimates in its reports of enrollment projections. The student admissions policies for such
108 institutions and their specific programs shall remain the sole responsibility of the individual governing
109 boards but all baccalaureate public institutions of higher education shall adopt dual admissions policies
110 with comprehensive community colleges as required by § 23.1-907.

111 5. Review and approve or disapprove all new undergraduate or graduate academic programs that any
112 public institution of higher education proposes.

113 6. Review and require the discontinuance of any undergraduate or graduate academic program that is
114 presently offered by any public institution of higher education when the Council determines that such
115 academic program is (i) nonproductive in terms of the number of degrees granted, the number of
116 students served by the program, the program's effectiveness, and budgetary considerations or (ii)
117 supported by state funds and unnecessarily duplicative of academic programs offered at other public
118 institutions of higher education. The Council shall make a report to the Governor and the General
119 Assembly with respect to the discontinuance of any such academic program. No such discontinuance
120 shall become effective until 30 days after the adjournment of the session of the General Assembly next

following the filing of such report.

7. Review and approve or disapprove the establishment of any department, school, college, branch, division, or extension of any public institution of higher education that such institution proposes to establish, whether located on or off the main campus of such institution. If any organizational change is determined by the Council to be proposed solely for the purpose of internal management and the institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing in this subdivision shall be construed to authorize the Council to disapprove the establishment of any such department, school, college, branch, division, or extension established by the General Assembly.

8. Review the proposed closure of any academic program in a high demand or critical shortage area, as defined by the Council, by any public institution of higher education and assist in the development of an orderly closure plan, when needed.

9. Develop a uniform, comprehensive data information system designed to gather all information necessary to the performance of the Council's duties. The system shall include information on admissions, enrollment, self-identified students with documented disabilities, personnel, programs, financing, space inventory, facilities, and such other areas as the Council deems appropriate. When consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the Council, acting solely or in partnership with the Virginia Department of Education or the Virginia Employment Commission, may contract with private entities to create de-identified student records in which all personally identifiable information has been removed for the purpose of assessing the performance of institutions and specific programs relative to the workforce needs of the Commonwealth.

10. In cooperation with public institutions of higher education, develop guidelines for the assessment of student achievement. Each such institution shall use an approved program that complies with the guidelines of the Council and is consistent with the institution's mission and educational objectives in the development of such assessment. The Council shall report each institution's assessment of student achievement in the revisions to the Commonwealth's statewide strategic plan for higher education.

11. In cooperation with the appropriate state financial and accounting officials, develop and establish uniform standards and systems of accounting, recordkeeping, and statistical reporting for public institutions of higher education.

12. Review biennially and approve or disapprove all changes in the inventory of educational and general space that any public institution of higher education proposes and report such approvals and disapprovals to the Governor and the General Assembly. No such change shall become effective until 30 days after the adjournment of the session of the General Assembly next following the filing of such report.

13. Visit and study the operations of each public institution of higher education at such times as the Council deems appropriate and conduct such other studies in the field of higher education as the Council deems appropriate or as may be requested by the Governor or the General Assembly.

14. Provide advisory services to each accredited nonprofit private institution of higher education whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education on academic, administrative, financial, and space utilization matters. The Council may review and advise on joint activities, including contracts for services between public and such private institutions of higher education or between such private institutions of higher education and any agency or political subdivision of the Commonwealth.

15. Adopt such policies and regulations as the Council deems necessary to implement its duties established by state law. Each public institution of higher education shall comply with such policies and regulations.

16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), requiring public institutions of higher education to release a student's academic and disciplinary record to a student's parent.

17. Require each institution of higher education formed, chartered, or established in the Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of institutional closure or revocation of approval to operate in the Commonwealth. An institution may ensure the preservation of student transcripts by binding agreement with another institution of higher education with which it is not corporately connected or in such other way as the Council may authorize by regulation. In the event that an institution closes or has its approval to operate in the Commonwealth revoked, the Council, through its director, may take such action as is necessary to secure and preserve the student transcripts until such time as an appropriate institution accepts all or some of the transcripts. Nothing in this subdivision shall be deemed to interfere with the right of a student to his own transcripts or authorize disclosure of student records except as may otherwise be authorized by law.

18. Require the development and submission of articulation, dual admissions, and guaranteed admissions agreements between associate-degree-granting and baccalaureate public institutions of higher

182 education.

183 19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint Subcommittee
184 Studying Higher Education Funding Policies for each public institution of higher education.

185 20. In consultation with each public institution of higher education, develop a one-year uniform
186 certificate of general studies program to be offered at each comprehensive community college. Such
187 program shall ensure that a comprehensive community college student who completes the one-year
188 certificate program is eligible to transfer all credits earned in academic subject coursework to a
189 baccalaureate public institution of higher education upon acceptance to such baccalaureate institution.

190 21. Cooperate with the Board of Education in matters of interest to both public elementary and
191 secondary schools and public institutions of higher education, particularly in connection with
192 coordination of the college admission requirements, coordination of teacher training programs with the
193 public school programs, and the Board's Six-Year Educational Technology Plan for Virginia. The
194 Council shall encourage public institutions of higher education to design programs that include the skills
195 necessary for the successful implementation of such Plan.

196 22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship
197 Committee in the implementation and administration of the Brown v. Board of Education Scholarship
198 Program pursuant to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

199 23. Insofar as possible, seek the cooperation and utilize the facilities of existing state departments,
200 institutions, and agencies in carrying out its duties.

201 24. Serve as the coordinating council for public institutions of higher education.

202 25. Serve as the planning and coordinating agency for all postsecondary educational programs for all
203 health professions and occupations and make recommendations, including those relating to financing, for
204 providing adequate and coordinated educational programs to produce an appropriate supply of properly
205 trained personnel. The Council may conduct such studies as it deems appropriate in furtherance of the
206 requirements of this subdivision. All state departments and agencies shall cooperate with the Council in
207 the execution of its responsibilities under this subdivision.

208 26. Carry out such duties as the Governor may assign to it in response to agency designations
209 requested by the federal government.

210 27. Insofar as practicable, preserve the individuality, traditions, and sense of responsibility of each
211 public institution of higher education in carrying out its duties.

212 28. Insofar as practicable, seek the assistance and advice of each public institution of higher
213 education in fulfilling its duties and responsibilities.

214 29. Assist the Virginia Research Investment Committee with the administration of the Virginia
215 Research Investment Fund consistent with the provisions of Article 8 (§ 23.1-3130 et seq.) of Chapter
216 31.

217 30. *Administer the Virginia Longitudinal Data System as a multiagency partnership for the purposes*
218 *of developing educational, health, social service, and employment outcome data; improving the efficacy*
219 *of state services; and aiding decision making.*

220 **§ 23.1-204.1. Postgraduation employment rates.**

221 A. *The Council shall annually publish data on its website on the proportion of graduates of each*
222 *public institution of higher education and each nonprofit private institution of higher education eligible*
223 *to participate in the Tuition Assistance Grant Program (§ 23.1-628 et seq.) who are employed (i) 18*
224 *months after the date of graduation and (ii) five years after the date of graduation. The data shall*
225 *include the program and the program level, as recognized by the Council, for each degree awarded by*
226 *each institution; the percentage of graduates known to be employed in the Commonwealth; the average*
227 *salary and the average higher education-related debt for the graduates on which the data is based;*
228 *rates of enrollment in remedial coursework for each institution; individual student credit accumulation*
229 *for each institution; rates of postsecondary degree completion; and any other information that the*
230 *Council determines is necessary to address adequate preparation for success in postsecondary education*
231 *and alignment between secondary and postsecondary education. The Council shall disseminate to each*
232 *public high school and each public institution of higher education and private institution of higher*
233 *education for which the Council has student-level data a link on its website to the published data. The*
234 *Council shall provide a notification template that each public high school may use to annually notify*
235 *students and their parents about the availability of such data. The published data shall be consistent*
236 *with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) and the*
237 *federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g).*

238 B. *Each such institution of higher education shall provide a link to such published postsecondary*
239 *education and employment data.*