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## HOUSE BILL NO. 2262

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance  
on February 16, 2017)

(Patron Prior to Substitute—Delegate Cox)

A BILL to amend and reenact § 2.2-2101, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 31 of Title 23.1 an article numbered 9, consisting of sections numbered 23.1-3134 through 23.1-3137, relating to the establishment of the Online Virginia Network Authority.

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, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 31 of Title 23.1 an article numbered 9, consisting of sections numbered 23.1-3134 through 23.1-3137, 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 § 23.1-3126; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3121; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23.1-3112; 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 § 23.1-3117; to members of the Board of Trustees of the Online Virginia Network Authority, who shall be appointed as provided in § 23.1-3135; 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 Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10; 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 Children's Services, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; 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 § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735; or to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided in § 2.2-2485.

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60 person from the Commonwealth at large to fill such a position.

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70 of Trustees of the Online Virginia Network Authority, who shall be appointed as provided in  
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84 § 2.2-2735; or to members of the Virginia Growth and Opportunity Board, who shall be appointed as  
85 provided in § 2.2-2485.

#### 86 Article 9.

##### 87 Online Virginia Network Authority.

##### 88 § 23.1-3134. Online Virginia Network Authority established.

89 The Online Virginia Network Authority (the Authority) is established as a political subdivision of the  
90 Commonwealth for the purpose of providing a means for individuals to earn degrees and postsecondary  
91 education credentials by improving the quality of and expanding access to online degree and credential  
92 programs that are beneficial to citizens, public institutions of higher education, and employers in the  
93 Commonwealth.

##### 94 § 23.1-3135. Board of Trustees.

95 A. The Authority shall be governed by a Board of Trustees (the Board) that has a total membership  
96 of 15 members that shall consist of four members of the House of Delegates to be appointed by the  
97 Speaker of the House of Delegates in accordance with the principles of proportional representation  
98 contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the  
99 Senate Committee on Rules; three nonlegislative citizen members to be appointed by the Governor; one  
100 nonlegislative citizen member to be appointed by the board of visitors of George Mason University; one  
101 nonlegislative citizen member to be appointed by the board of visitors of Old Dominion University; and  
102 three members who shall serve ex officio with voting privileges, consisting of the President of George  
103 Mason University or his designee, the President of Old Dominion University or his designee, and the  
104 Director of the Council. Nonlegislative citizen members of the Authority shall be citizens of the  
105 Commonwealth.

106 B. Legislative and ex officio members of the Board shall serve terms coincident with their terms of  
107 office.

108 C. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired  
109 terms. Vacancies shall be filled in the same manner as the original appointments. All members may be  
110 reappointed.

111 D. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term  
112 of four years.

113 E. No House member shall serve more than four consecutive two-year terms, no Senate member shall  
114 serve more than two consecutive four-year terms, and no nonlegislative citizen member shall serve more  
115 than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill  
116 a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

117 F. The Board shall elect a chairman and vice-chairman from among its membership. A majority of  
118 the members shall constitute a quorum. The meetings of the Board shall be held at the call of the  
119 chairman or whenever the majority of the members so request.

120 G. Legislative members of the Board shall receive such compensation as provided in § 30-19.12, and  
121 nonlegislative citizen members shall receive such compensation for the performance of their duties as

provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

H. George Mason University and Old Dominion University shall provide staff support to the Authority and the Board. All agencies of the Commonwealth shall provide assistance to the Board, upon request.

**§ 23.1-3136. Duties of the Authority.**

The Authority shall:

1. Expand access to affordable higher education in the Commonwealth by establishing the Online Virginia Network (the Network) for the purpose of coordinating the online delivery of courses that facilitate the completion of degrees at George Mason University and Old Dominion University;

2. Encourage each public institution of higher education and each consortium of public institutions of higher education that offers online courses, online degree programs, or online credential programs to offer any such course, degree program, or credential program through the Network;

3. Oversee a process of approval for public institutions of higher education and consortia of such institutions to participate in the Network, with such funds as are appropriated for such purpose and made available to it;

4. Serve as a resource for residents of the Commonwealth and disseminate information regarding the opportunities for online learning offered by institutions and consortia that participate in the Network;

5. Coordinate the maintenance of an online portal through which potential students may examine and enroll seamlessly in Network offerings;

6. Collaborate with institutions and consortia that participate in the Network to ensure that the needs of enrolled students are met before, during, and after enrollment through online student support systems;

7. To the extent practicable, ensure that courses and degree programs offered through the Network (i) are accredited by an accrediting agency recognized by the U.S. Department of Education or authorized by the Council, as applicable; (ii) expand access to underserved populations based on income, race, geography, and age; (iii) are responsive to the employment demands of the Commonwealth; (iv) employ learning and delivery technologies, which may include competency-based and experiential learning, in an efficient and cost-effective manner to promote flexibility for each student to pursue online courses and programs at his own pace and in his own location throughout the year; (v) minimize student expenses and reduce time-to-degree or time-to-credential; and (vi) are offered in collaboration with existing public and private providers of online courses;

8. Promote the refinement and implementation of articulation agreements to ensure that credits earned through the Network are transferable to each other public institution of higher education and contribute to on-time degree completion at each such institution;

9. Assist in developing processes to help institutions and consortia that participate in the Network to expand their online offerings;

10. Develop specific goals for meeting the demand in the Commonwealth for affordable and accessible higher education through online learning;

11. Review and report annually to the Governor and the General Assembly on the cost structure of funds allocated to the establishment, maintenance, and expansion of the Network. In addition, the Authority shall examine ways to reduce the cost of online education and develop a budget that incorporates estimated expected tuition revenue from online students and its use in supporting the Network and assumes that any financial aid will come from existing financial aid programs; and

12. Accept, administer, and account for any state, federal, or private moneys that it may receive. Any moneys, including interest thereon, that have not been expended by the Authority by the end of each fiscal year shall not revert to the general fund but shall remain in the accounts of the Authority.

**§ 23.1-3137. Procurement and information technology.**

A. The Authority shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for § 2.2-4342, which shall not be construed to require compliance with the prequalification application procedures of subsection B of § 2.2-4317, if it adopts and complies with policies for the procurement of goods and services, including professional services, that (i) are based upon competitive principles; (ii) in each instance seek competition to the maximum practical degree; (iii) implement a system of competitive negotiation for professional services pursuant to §§ 2.2-4303.1 and 2.2-4302.2; (iv) prohibit discrimination in the solicitation and award of contracts based on the bidder's or offeror's race, religion, color, sex, national origin, age, or disability or on any other basis prohibited by state or federal law; (v) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354; (vi) consider the impact on correctional enterprises under § 53.1-47; (vii) provide that whenever solicitations are made seeking competitive procurement of goods or services, it shall be a priority of the Authority to provide for fair and reasonable consideration of small, women-owned, and minority-owned businesses and to promote and encourage a diversity of suppliers; and (viii) identify the

183 *public, educational, and operational interests served by any procurement rule that deviates from*  
184 *procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).*

185 *B. The Authority shall be exempt from the provisions governing the Virginia Information*  
186 *Technologies Agency in Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 and the provisions governing the*  
187 *Information Technology Advisory Council in Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2,*  
188 *if it adopts and complies with policies and professional best practices regarding strategic planning for*  
189 *information technology, project management, security, budgeting, infrastructure, and ongoing operations.*

190 **2. That the initial appointments of nonlegislative citizen members of the Online Virginia Network**  
191 **Authority Board of Trustees, as created by this act, shall be staggered as follows: one member for**  
192 **a term of two years appointed by the board of visitors of George Mason University; one member**  
193 **for a term of three years appointed by the board of visitors of Old Dominion University; and**  
194 **three members for a term of four years appointed by the Governor.**

195 **2. That the provisions of this act shall not become effective unless an appropriation effectuating**  
196 **the purposes of this act is included in a general appropriation act passed in 2017 by the General**  
197 **Assembly that becomes law.**