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SENATE BILL NO. 986

Offered January 11, 2017

Prefiled January 3, 2017

A *BILL to amend and reenact §§ 23.1-307 and 23.1-1301 of the Code of Virginia, relating to higher education; in-state tuition increases.*

Patrons—DeSteph and Petersen; Delegates: Knight and Morefield

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-307 and 23.1-1301 of the Code of Virginia are amended and reenacted as follows:
 § 23.1-307. Public institutions of higher education; tuition and fees.

A. ~~The Subject to the limitations set forth in subsection D, the~~ governing board of each public institution of higher education shall continue to fix, revise, 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.

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 any fiscal year for Virginia students exceeds the difference for such fiscal year between (i) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303 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 § 23.1-303, and its per student funding provided pursuant to § 23.1-304, the institution shall 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, an institution's share of state-mandated salary or fringe benefit increases, increases in 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 § 23.1-303, the institution's progress towards achieving any financial incentive pursuant to § 23.1-305, unavoidable cost increases such as operation and maintenance for new facilities and utility rate increases, or 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 § 23.1-306 (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 any fiscal year for Virginia students to exceed the difference for such fiscal year between (a) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303, 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 § 23.1-303, and its per student funding provided pursuant to § 23.1-304.

D. *No increase in in-state tuition for undergraduate students shall exceed a percentage equal to the annual percentage increase, as determined by the Council, in the national average wage index as defined in § 209(k)(1) of the Social Security Act, 42 U.S.C. 409(k)(1), of the calendar year immediately preceding the affected year. The Council shall determine and report the annual percentage increase for the preceding year to the governing board of each of the public institutions of higher education in the Commonwealth and the State Board by September 1 of each year.*

§ 23.1-1301. Governing boards; powers.

A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

1. Make regulations and policies concerning the institution;
2. Manage the funds of the institution and approve an annual budget;
3. Appoint the chief executive officer of the institution;
4. Appoint professors and fix their salaries; and

5. ~~Fix~~ *Subject to the limitations set forth in subsection D of § 23.1-307, fix* the rates charged to students for tuition, mandatory fees, and other necessary charges.

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SB986

59 B. The governing board of each public institution of higher education or its designee may:
60 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative
61 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has
62 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms
63 and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and
64 administered in the same manner as all other gifts and bequests;
65 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other
66 purposes on any property owned by the institution;
67 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,
68 maintained, or controlled by the institution;
69 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,
70 instructors, and other employees;
71 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to
72 the regulations or institution policies required pursuant to § 23.1-1303;
73 6. Adopt regulations or institution policies for the conduct of students in attendance and for the
74 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide
75 by such regulations or policies;
76 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to
77 promote (i) student compliance with state laws on the use of alcoholic beverages and (ii) the awareness
78 and prevention of sexual crimes committed upon students;
79 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority
80 in accordance with the prohibition against hazing as defined in § 18.2-56;
81 9. Assign any interest it possesses in intellectual property or in materials in which the institution
82 claims an interest, provided such assignment is in accordance with the terms of the institution's
83 intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is
84 required for transfers of such property (i) developed wholly or predominantly through the use of state
85 general funds, exclusive of capital assets and (ii) (a) developed by an employee of the institution acting
86 within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1)
87 the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage
88 intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity
89 whose purpose is to benefit the respective institutions. The Governor may attach conditions to these
90 transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials
91 shall remain the property of the respective institutions and may be used and developed in any manner
92 permitted by law;
93 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state
94 public body" for purposes of subsection B of § 2.2-3708; and
95 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution
96 to enforce state statutes and local ordinances with respect to offenses occurring on the property of the
97 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes
98 and local ordinances with respect to offenses occurring on the property of the institution.