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HOUSE BILL NO. 351

Offered January 10, 2018

Prefiled January 4, 2018

A BILL to amend and reenact § 23.1-1303 of the Code of Virginia, relating to public institutions of higher education; tuition and room and board; enrollment.

Patrons—Reid, Bell, Richard P., Gooditis, Miyares, Robinson, Rodman and VanValkenburg

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:**1. That § 23.1-1303 of the Code of Virginia is amended and reenacted as follows:****§ 23.1-1303. Governing boards; duties.**

A. For purposes of this section, "intellectual property" means (i) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable.

B. The governing board of each public institution of higher education shall:

1. Adopt and post conspicuously on its website bylaws for its own governance, including provisions that (i) establish the requirement of transparency, to the extent required by law, in all board actions; (ii) describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in subdivision B 10 of § 23.1-1301, including the requirements that (a) the board record minutes of each open meeting and post the minutes on the board's website, in accordance with subsection H of § 2.2-3707 and § 2.2-3707.1, (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 be held in an open meeting, (c) the board give public notice of all meetings, in accordance with subsection C of § 2.2-3707, and (d) any action taken in a closed meeting be approved in an open meeting before it can have any force or effect, in accordance with subsection B of § 2.2-3711; and (iii) require that the board invite the Attorney General's appointee or representative to all meetings of the board, executive committee, and board committees;

2. Establish regulations or institution policies for the acceptance and assistance of students that include provisions (i) that specify that individuals who have knowingly and willfully failed to meet the federal requirement to register for the selective service are not eligible to receive any state direct student assistance, (ii) that specify that the accreditation status of a public high school in the Commonwealth shall not be considered in making admissions determinations for students who have earned a diploma pursuant to the requirements established by the Board of Education, and (iii) relating to the admission of certain graduates of comprehensive community colleges as set forth in § 23.1-907;

3. Assist the Council in enforcing the provisions relating to eligibility for financial aid;

4. Notwithstanding any other provision of state law, establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs. However, notification may be withheld if any person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board within the Department of Health Professions who is treating the student has made a part of the student's record a written statement that, in the exercise of his professional judgment, the notification would be reasonably likely to cause substantial harm to the student or another person. No public institution of higher education or employee of a public institution of higher education making a disclosure pursuant to this subsection is civilly liable for any harm resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct by the institution or its employees;

5. Establish policies and procedures requiring the release of the educational record of a dependent student, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), to a parent at his request;

6. Establish programs to seek to ensure that all graduates have the technology skills necessary to compete in the twenty-first century and that all students matriculating in teacher-training programs

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59 receive instruction in the effective use of educational technology;

60 7. Establish policies for the discipline of students who participate in varsity intercollegiate athletics,
61 including a provision requiring an annual report by the administration of the institution to the governing
62 board regarding enforcement actions taken pursuant to such policies;

63 8. In addition to all meetings prescribed in Chapters 14 (§ 23.1-1400 et seq.) through 29
64 (§ 23.1-2900 et seq.), meet with the chief executive officer of the institution at least once annually, in a
65 closed meeting pursuant to subdivision A 1 of § 2.2-3711 and deliver an evaluation of the chief
66 executive officer's performance. Any change to the chief executive officer's employment contract during
67 any such meeting or any other meeting of the board shall be made only by a vote of the majority of the
68 board's members;

69 9. If human research, as defined in § 32.1-162.16, is conducted at the institution, adopt regulations
70 pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter
71 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. Such regulations shall require the human
72 research committee to submit to the Governor, the General Assembly, and the chief executive officer of
73 the institution or his designee at least annually a report on the human research projects reviewed and
74 approved by the committee and require the committee to report any significant deviations from approved
75 proposals;

76 10. Submit the annual financial statements for the fiscal year ending the preceding June 30 and the
77 accounts and status of any ongoing capital projects to the Auditor of Public Accounts for the audit of
78 such statements pursuant to § 30-133;

79 11. No later than December 1 of each year, report to the Council (i) the value of investments as
80 reflected on the Statement of Net Position as of June 30 of the previous fiscal year, excluding any funds
81 derived from endowment donations, endowment income, or other private philanthropy; (ii) the cash
82 earnings on such balances in the previous fiscal year; and (iii) the use of the cash earnings on such
83 balances. In the event that the commitment of any such investment earnings spans more than one fiscal
84 year, the report shall reflect the commitments made in each future fiscal year. The reports of the Boards
85 of Visitors of Virginia Commonwealth University and the University of Virginia shall exclude the value
86 of and earnings on any investments held by the Virginia Commonwealth University Health System
87 Authority and the University of Virginia Medical Center, respectively. As used in this subdivision,
88 "investments" includes all short-term, long-term, liquid, and illiquid Statement of Net Position accounts,
89 and subaccounts thereof, in which moneys have been invested in securities.

90 12. Submit to the General Assembly and the Governor an annual executive summary of its interim
91 activity and work no later than the first day of each regular session of the General Assembly. The
92 executive summary shall be submitted as provided in the procedures of the Division of Legislative
93 Automated Systems for the processing of legislative documents and reports and shall be posted on the
94 General Assembly's website;

95 13. Make available to any interested party upon request a copy of the portion of the most recent
96 report of the Uniform Crime Reporting Section of the Department of State Police entitled "Crime in
97 Virginia" pertaining to institutions of higher education;

98 14. Adopt policies or institution regulations regarding the ownership, protection, assignment, and use
99 of intellectual property and provide a copy of such policies or institution regulations to the Governor
100 and the Joint Commission on Technology and Science. All employees, including student employees, of
101 public institutions of higher education are bound by the intellectual property policies or institution
102 regulations of the institution employing them; and

103 15. Adopt policies that are supportive of the intellectual property rights of matriculated students who
104 are not employed by such institution.

105 *C. Notwithstanding the provisions of subdivision A 5 of § 23.1-1301:*

106 *1. The tuition charged to Virginia students at each public institution of higher education shall be*
107 *capped at the rate charged to such students for the first academic term of the 2017-2018 academic year.*

108 *2. The room and board charged to Virginia students at each public institution of higher education*
109 *may be increased on an annual basis in advance of the first academic term of the academic year, but*
110 *the percentage of such increase shall be capped at 90 percent of the annual percentage increase in the*
111 *Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau*
112 *of Labor Statistics of the U.S. Department of Labor, from January 1 through December 31 of the year*
113 *immediately preceding the relevant academic year.*

114 *D. The percentage of non-Virginia students enrolled at each public institution of higher education*
115 *shall be capped at the percentage of such students enrolled for the first academic term of the 2017-2018*
116 *academic year. Nothing in this subsection or subsection C shall be construed to prohibit an increase in*
117 *the tuition or room and board charged to non-Virginia students at each public institution of higher*
118 *education.*

119 **2. That the provisions of this act shall expire on July 1, 2022.**