

19102320D

HOUSE BILL NO. 2653

Offered January 11, 2019

A BILL to amend and reenact § 23.1-306 of the Code of Virginia, relating to public institutions of higher education; institutional partnership performance agreements.

Patrons—Cox, Fariss, Helsel, Hugo, Landes, LaRock, McNamara, Poindexter, Robinson, Thomas, Webert and Yancey

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-306 of the Code of Virginia is amended and reenacted as follows:

§ 23.1-306. Public institutions of higher education; six-year plans; institutional partnership performance agreements.

A. The governing board of each public institution of higher education shall (i) develop and adopt biennially in odd-numbered years and amend or affirm biennially in even-numbered years a six-year plan for the institution; (ii) submit a preliminary version of such plan to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than July 1 of each odd-numbered year; and (iii) submit preliminary amendments to or a preliminary affirmation of each such plan to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than July 1 of each even-numbered year. Each such preliminary plan and preliminary amendment to or preliminary affirmation of such plan shall include a report of the institution's active contributions to efforts to stimulate the economic development of the Commonwealth, the area in which the institution is located, and, for those institutions subject to a management agreement set forth in Article 4 (§ 23.1-1004 et seq.) of Chapter 10, the areas that lag behind the Commonwealth in terms of income, employment, and other factors. Each such preliminary plan and preliminary amendment to or preliminary affirmation of such plan shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. No such preliminary plan, amendments, or affirmation shall be posted on the General Assembly's website.

B. The Secretary of Finance, the Secretary of Education, the Director of the Department of Planning and Budget, the Director of the Council, the Staff Director of the House Committee on Appropriations, and the Staff Director of the Senate Committee on Finance, or their designees, shall review each institution's preliminary plan, amendments, or affirmation and provide comments to the institution on such plan, amendments, or affirmation by September 1 of the relevant year. Each institution shall respond to any such comments by October 1 of that year and submit a finalized version of such plan, amendments, or affirmation to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than December 1 of that year. Each such finalized version shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

C. Each plan shall be structured in accordance with, and be consistent with, the objective and purposes of this chapter set forth in § 23.1-301 and the criteria developed pursuant to § 23.1-309 and shall be in a form and manner prescribed by the Council, in consultation with the Secretary of Finance, the Secretary of Education, the Director of the Department of Planning and Budget, the Director of the Council, the Staff Director of the House Committee on Appropriations, and the Staff Director of the Senate Committee on Finance, or their designees.

D. Each six-year plan shall (i) address the institution's academic, financial, and enrollment plans, including the number of Virginia and non-Virginia students, for the six-year period; (ii) indicate the planned use of any projected increase in general fund, tuition, or other nongeneral fund revenues; (iii) be based upon any assumptions provided by the Council, following consultation with the Department of Planning and Budget and the staffs of the House Committee on Appropriations and the Senate Committee on Finance, for funding relating to state general fund support pursuant to §§ 23.1-303, 23.1-304, and 23.1-305 and subdivision 9; (iv) be aligned with the institution's six-year enrollment projections; and (v) include:

1. Financial planning reflecting the institution's anticipated level of general fund, tuition, and other

INTRODUCED

HB2653

58 nongeneral fund support for each year of the next biennium;

59 2. The institution's anticipated annual tuition and educational and general fee charges required by (i)  
60 degree level and (ii) domiciliary status, as provided in § 23.1-307;

61 3. Plans for providing financial aid to help mitigate the impact of tuition and fee increases on  
62 low-income and middle-income students and their families as described in subdivision 9, including the  
63 projected mix of grants and loans;

64 4. Degree conferral targets for undergraduate Virginia students;

65 5. Plans for optimal year-round use of the institution's facilities and instructional resources;

66 6. Plans for the development of an instructional resource-sharing program with other public  
67 institutions of higher education and private institutions of higher education;

68 7. Plans with regard to any other incentives set forth in § 23.1-305 or any other matters the  
69 institution deems appropriate;

70 8. The identification of (i) new programs or initiatives including quality improvements and (ii)  
71 institution-specific funding based on particular state policies or institution-specific programs, or both, as  
72 provided in subsection C of § 23.1-307; and

73 9. An institutional student financial aid commitment that, in conjunction with general funds  
74 appropriated for that purpose, provides assistance to students from both low-income and middle-income  
75 families and takes into account the information and recommendations resulting from the review of  
76 federal and state financial aid programs and institutional practices conducted pursuant to subdivisions B  
77 2 and C 1 of § 23.1-309.

78 E. In developing such plans, each public institution of higher education shall consider potential future  
79 impacts of tuition increases on the Virginia College Savings Plan and ABLE Savings Trust Accounts  
80 (§ 23.1-700 et seq.) and shall discuss such potential impacts with the Virginia College Savings Plan. The  
81 chief executive officer of the Virginia College Savings Plan shall provide to each institution the Plan's  
82 assumptions underlying the contract pricing of the program.

83 *F. In conjunction with the plans included in the six-year plan as set forth in subsection D, each  
84 public institution of higher education may propose, and the General Assembly may adopt by reference in  
85 the general appropriation act, an institutional partnership performance agreement (agreement) that  
86 advances the objectives of this chapter by aligning the strategies, activities, and investments of the  
87 institution, the Commonwealth, and any identified partners concerning (i) college access, affordability,  
88 cost predictability, and employment pathways for undergraduate Virginia students and (ii) strategic  
89 talent development and other high-priority economic initiatives of the Commonwealth, thereby providing  
90 a stable regulatory and financial environment that will facilitate planning, collaboration, and investment  
91 in furtherance of such objectives.*

92 *G. Each agreement shall include the institution's college affordability and cost predictability plan  
93 and may include other provisions related to student outcomes, strategic economic initiatives, identified  
94 public sector or private sector partners, institutional performance and innovation, and the undertakings  
95 and commitments of the institution, the Commonwealth, and any identified partners relating to such  
96 matters.*

97 *H. The college affordability and cost predictability plan set out in each agreement shall address the  
98 institution's plans for (i) undergraduate Virginia student enrollment, (ii) the net cost of attendance,  
99 consisting of tuition and fees less student financial aid, for undergraduate Virginia students at all  
100 income levels over the two-year or four-year course of study leading to a degree, (iii) the anticipated  
101 aggregate student loan obligations of undergraduate Virginia students upon completion of a degree, (iv)  
102 work-study, loan forgiveness, and other work-related opportunities to defray higher education costs, and  
103 (v) the corresponding expectations regarding the Commonwealth's policies and financial support.*

104 *I. The institutional performance and innovation provisions of any agreement may address (i)  
105 performance measures and performance-based funding for initiatives included in the agreement; (ii)  
106 enrollment and revenue management autonomy, subject to specified commitments related to  
107 undergraduate Virginia student enrollment; (iii) opportunities for institutional innovation and process  
108 improvements; and (iv) collaboration among institutions, business organizations, and other public sector  
109 or private sector partners.*

110 *J. As an expression of mutual intention by the institution, the Commonwealth, and, where applicable,  
111 identified partners, each agreement shall be set out in a memorandum of understanding and shall not  
112 become effective unless it is adopted by reference by the General Assembly in the general appropriation  
113 act. No agreement creates a legally enforceable obligation on the part of the institution, the  
114 Commonwealth, any party to the agreement, or any partner identified pursuant to the agreement.*

115 *K. No agreement shall be construed to diminish or affect the authority of the governing board of the  
116 institution to set tuition and fees or to take other action within its purview under the laws of the  
117 Commonwealth, provided, however, that adherence to the terms of the agreement by the institution is a  
118 prerequisite for adherence to terms of the agreement by or on behalf of the Commonwealth and  
119 adherence to the terms of the agreement by the Commonwealth is a prerequisite for adherence to terms*

120 of the agreement by or on behalf of the institution.

121 L. Specific enrollment management authority conferred upon an institution pursuant to an agreement  
122 shall not be superseded by the general appropriation act or by any subsequent act of assembly unless,  
123 and to the extent that, any such act expressly so provides.

124 M. No agreement supersedes the institution's management agreement or memorandum of  
125 understanding entered into pursuant to the Restructured Higher Education Financial and Administrative  
126 Operations Act (§ 23.1-1000 et seq.) unless, and to the extent that, the terms of the agreement expressly  
127 so provide.

128 N. Development and approval of any agreement shall proceed in tandem with consideration of the  
129 institution's six-year plan, as follows:

130 1. An institution that proposes an agreement shall include the proposed agreement with its  
131 submission of the preliminary version of its six-year plan pursuant to clause (ii) of subsection A or with  
132 its preliminary amendment or affirmation submission pursuant to clause (iii) of subsection A.

133 2. The Secretary of Finance, the Secretary of Education, the Director of the Department of Planning  
134 and Budget, the Director of the Council, the Staff Director of the House Committee on Appropriations,  
135 and the Staff Director of the Senate Committee on Finance, or their designees, shall review and  
136 comment on any proposed agreement in accordance with the six-year plan review and comment process  
137 established in subsection B and may expedite such review and comment process to facilitate the  
138 executive and legislative budget process or for other reasons.

139 3. Each agreement shall be adopted by reference in the general appropriation act and may be signed  
140 at any time prior to final action by the General Assembly on the general appropriation act.

141 4. Any agreement may be modified by the same process as it is approved as set forth in subdivisions  
142 1, 2, and 3.