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## SENATE BILL NO. 1616

Offered January 9, 2019

Prefiled January 9, 2019

A *BILL to amend and reenact §§ 23.1-307 and 23.1-1301 of the Code of Virginia, relating to public institutions of higher education; tuition and mandatory fees.*

Patrons—Wagner and Chase

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 provisions of subsections E and F, 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 governing board of any public institution of higher education shall approve an increase in undergraduate tuition or mandatory fees without providing students and the public a projected range of the planned increase, an explanation of the need for the increase, and notice of the date and location of any vote on such increase at least 30 days prior to such vote.

E. *The governing board of any public institution of higher education for which the average increase in the amount of undergraduate tuition and mandatory fees over the most recent 10-academic-year period exceeds the average increase in the amount of undergraduate tuition and mandatory fees over such period across each public institution of higher education is ineligible to increase undergraduate tuition and mandatory fees for the subsequent academic year.*

F. *The governing board of any public institution of higher education that is not deemed ineligible pursuant to subsection E may increase undergraduate tuition and mandatory fees for the subsequent academic year by a certain percentage, provided that no such percentage increase exceeds (i) the annual percentage increase in the average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, from January 1 through December 31 of the year immediately preceding the relevant academic year, multiplied by (ii)*

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59 *a factor that begins at 0.500 for the eligible institution with the highest average increase in the amount*  
60 *of undergraduate tuition and mandatory fees over the most recent 10-academic-year period and*  
61 *increases by 0.100 for each subsequent eligible institution based on average increases in the amount of*  
62 *undergraduate tuition and mandatory fees over the most recent 10-academic-year period, from second*  
63 *highest to lowest increase.*

64 **§ 23.1-1301. Governing boards; powers.**

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

- 67 1. Make regulations and policies concerning the institution;
- 68 2. Manage the funds of the institution and approve an annual budget;
- 69 3. Appoint the chief executive officer of the institution;
- 70 4. Appoint professors and fix their salaries; and
- 71 5. ~~Fix~~ *Subject to the provisions of § 23.1-307, fix* the rates charged to students for tuition, mandatory  
72 fees, and other necessary charges.

73 B. The governing board of each public institution of higher education or its designee may:

74 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative  
75 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has  
76 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms  
77 and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and  
78 administered in the same manner as all other gifts and bequests;

79 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other  
80 purposes on any property owned by the institution;

81 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,  
82 maintained, or controlled by the institution;

83 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,  
84 instructors, and other employees;

85 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to  
86 the regulations or institution policies required pursuant to § 23.1-1303;

87 6. Adopt regulations or institution policies for the conduct of students in attendance and for the  
88 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide  
89 by such regulations or policies;

90 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to  
91 promote (i) student compliance with state laws on the use of alcoholic beverages and (ii) the awareness  
92 and prevention of sexual crimes committed upon students;

93 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority  
94 in accordance with the prohibition against hazing as defined in § 18.2-56;

95 9. Assign any interest it possesses in intellectual property or in materials in which the institution  
96 claims an interest, provided such assignment is in accordance with the terms of the institution's  
97 intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is  
98 required for transfers of such property (i) developed wholly or predominantly through the use of state  
99 general funds, exclusive of capital assets and (ii)(a) developed by an employee of the institution acting  
100 within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1)  
101 the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage  
102 intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity  
103 whose purpose is to benefit the respective institutions. The Governor may attach conditions to these  
104 transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials  
105 shall remain the property of the respective institutions and may be used and developed in any manner  
106 permitted by law;

107 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state  
108 public body" for purposes of subsection D of § 2.2-3708.2; and

109 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution  
110 to enforce state statutes and local ordinances with respect to offenses occurring on the property of the  
111 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes  
112 and local ordinances with respect to offenses occurring on the property of the institution.