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HOUSE BILL NO. 1157

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education
on February 5, 2020)

(Patron Prior to Substitute—Delegate Tran)

A *BILL to amend and reenact §§ 23.1-1300, 23.1-1401, 23.1-1501, 23.1-1601, 23.1-1701, 23.1-1801, 23.1-1901, 23.1-2001, 23.1-2101, 23.1-2201, 23.1-2303, 23.1-2501, 23.1-2601, 23.1-2701, 23.1-2801, and 23.1-2902 of the Code of Virginia, relating to public institutions of higher education; members of governing boards; student voting member.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-1300, 23.1-1401, 23.1-1501, 23.1-1601, 23.1-1701, 23.1-1801, 23.1-1901, 23.1-2001, 23.1-2101, 23.1-2201, 23.1-2303, 23.1-2501, 23.1-2601, 23.1-2701, 23.1-2801, and 23.1-2902 of the Code of Virginia are amended and reenacted as follows:

§ 23.1-1300. Members of governing boards; removal; terms; nonvoting, advisory representatives; residency.

A. Members appointed by the Governor to the governing boards of public institutions of higher education shall serve for terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. ~~No~~ *Except as otherwise provided in subsection H, no* member appointed by the Governor to such a governing board shall serve for more than two consecutive four-year terms; however, a member appointed by the Governor to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term. Except as otherwise provided in § 23.1-2601, all appointments are subject to confirmation by the General Assembly. Members appointed by the Governor to the governing board of a public institution of higher education shall continue to hold office until their successors have been appointed and qualified. Ex officio members shall serve a term coincident with their term of office.

B. No member appointed by the Governor to the governing board of a public institution of higher education who has served two consecutive four-year terms on such board is eligible to serve on the same board until at least four years have passed since the end of his second consecutive four-year term.

C. Notwithstanding the provisions of subsection E or any other provision of law, the Governor may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board of any public institution of higher education and fill the vacancy resulting from the removal.

D. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to subsection C at the time the removal occurs. The Governor is the sole judge of the sufficiency of the cause for removal as set forth in subsection C.

E. If any member of the governing board of a public institution of higher education fails to attend (i) the meetings of the board for one year without sufficient cause, as determined by a majority vote of the board, or (ii) the educational programs required by § 23.1-1304 in his first two years of membership without sufficient cause, as determined by a majority vote of the board, the remaining members of the board shall record such failure in the minutes at its next meeting and notify the Governor, and the office of such member shall be vacated. No member of the board of visitors of a baccalaureate public institution of higher education or the State Board for Community Colleges who fails to attend the educational programs required by § 23.1-1304 during his first four-year term is eligible for reappointment to such board.

F. The governing board of each public institution of higher education shall adopt in its bylaws policies (i) for removing members pursuant to subsection E and (ii) referencing the Governor's power to remove members described in subsection C.

G. The governing board of each public institution of higher education and each local community college board may appoint one or more nonvoting, advisory faculty representatives to its respective board. In the case of local community college boards and boards of visitors, such representatives shall be chosen from individuals elected by the faculty or the institution's faculty senate or its equivalent. In the case of the State Board, such representatives shall be chosen from individuals elected by the Chancellor's Faculty Advisory Committee. Such representatives shall be appointed to serve (i) at least one term of at least 12 months, which shall be coterminous with the institution's fiscal year or (ii) for such terms as may be mutually agreed to by the State Board and the Chancellor's Faculty Advisory Committee, or by the local community college board or the board of visitors, and the institution's faculty senate or its equivalent.

H. ~~The board of visitors of any baccalaureate public institution of higher education One of the Governor's appointments pursuant to subsection A shall appoint one or more students be a current full-time student who serves as nonvoting, advisory representatives. Such representatives shall be~~

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60 appointed under such circumstances and serve for such terms as the board of visitors of the institution
61 shall prescribe a voting member. The student voting member shall have been elected by his peers to a
62 leadership position in a student organization recognized by the institution or currently serve in an
63 elected position in a student organization recognized by the institution in the year that the Governor
64 appoints such student to a governing board. Each such student member is eligible to serve two
65 consecutive four-year terms, provided, however, that any such student who ceases to be enrolled
66 full-time at the institution may be removed from the board.

67 I. Nothing in ~~subsections~~ subsection G and H shall prohibit the governing board of any public
68 institution of higher education or any local community college board from excluding such nonvoting,
69 advisory faculty or student representatives representative from discussions of faculty grievances, faculty
70 or staff disciplinary matters or salaries, or any other matter.

71 J. The president or any one of the vice presidents of the board of visitors of Virginia Military
72 Institute, the chairman or the vice-chairman of the State Board, and the rector or vice-rector of the
73 governing board of each other public institution of higher education shall be a resident of the
74 Commonwealth.

75 K. No baccalaureate public institution of higher education shall employ an individual appointed by
76 the Governor to the board of visitors of such institution within two years of the expiration of his term.
77 Such prohibition shall not apply to the employment of an individual to serve as an institution president
78 or, in the case of Virginia Military Institute, the Superintendent.

79 **§ 23.1-1401. Membership.**

80 The board shall consist of ~~44~~ 15 members appointed by the Governor, of whom at least six shall be
81 alumni of the University.

82 **§ 23.1-1501. Membership.**

83 A. The board shall consist of ~~46~~ 17 members appointed by the Governor. At least one member
84 appointed each year shall be an alumnus of the University.

85 B. The alumni association of the University and the board may submit to the Governor a list of at
86 least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term
87 or otherwise. The Governor may appoint a member from the list of nominees.

88 **§ 23.1-1601. Membership.**

89 A. The board shall consist of ~~45~~ 16 members appointed by the Governor, of whom at least 13 shall
90 be residents of the Commonwealth.

91 B. The alumni association of the University may submit to the Governor a list of at least three
92 nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or
93 otherwise. The Governor may appoint a member from the list of nominees. The Governor is not limited
94 in his appointments to the individuals so nominated.

95 **§ 23.1-1701. Membership.**

96 A. The board shall consist of ~~43~~ 14 members appointed by the Governor, of whom at least two shall
97 be alumni of the University and at least 11 shall be residents of the Commonwealth.

98 B. The alumni association of the University may submit to the Governor a list of at least three
99 nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or
100 otherwise. The Governor may appoint a member from the list of nominees.

101 **§ 23.1-1801. Membership.**

102 A. The board shall consist of ~~42~~ 13 members appointed by the Governor, of whom at least nine shall
103 be residents of the Commonwealth and at least six shall be alumni of the University.

104 B. The alumni association of the University may submit to the Governor a list of at least three
105 nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or
106 otherwise. The Governor may appoint a member from the list of nominees.

107 **§ 23.1-1901. Membership; executive committee.**

108 A. The board of visitors shall consist of ~~43~~ 14 members appointed by the Governor, of whom at
109 least four shall be alumni of the University. Of the alumni appointed, at least one shall be a resident of
110 the Commonwealth.

111 B. The alumni association of the University may submit to the Governor a list of four nominees for
112 each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The
113 Governor may appoint a member from the list of nominees.

114 C. The board may appoint at least three and not more than five of its members to an executive
115 committee that has and may exercise such powers as the board may prescribe.

116 **§ 23.1-2001. Membership.**

117 A. The board shall consist of ~~47~~ 18 members appointed by the Governor, of whom at least 14 shall
118 be residents of the Commonwealth and at least three shall be alumni of the University.

119 B. The alumni association of the University may submit to the Governor a list of at least three
120 nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or
121 otherwise. The Governor may appoint a member from the list of nominees.

§ 23.1-2101. Membership.

A. The board shall consist of ~~45~~ 16 members appointed by the Governor, of whom at least 11 shall be residents of the Commonwealth.

B. The alumni association of the University may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.

§ 23.1-2201. Membership.

A. The board shall consist of ~~47~~ 18 members appointed by the Governor, of whom at least (i) 12 shall be appointed from the Commonwealth at large, (ii) 12 shall be alumni of the University, ~~and~~ (iii) one shall be a physician with administrative and clinical experience in an academic medical center, ~~and~~ (iv) *one shall be a student voting representative pursuant to subsection H of § 23.1-1300.*

B. The alumni association of the University may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint members from the list of nominees.

§ 23.1-2303. Membership.

A. The board shall consist of ~~46~~ 17 members appointed by the Governor.

B. Notwithstanding § 23.1-1300, members are eligible to serve for a total of two four-year terms which may be served consecutively; however, a member appointed by the Governor to serve an unexpired term is eligible to serve two additional four-year terms.

§ 23.1-2501. Membership.

A. The board shall consist of ~~47~~ 18 members, of whom ~~46~~ 17 shall be appointed by the Governor and one shall be the Adjutant General, who shall serve ex officio. Of the ~~46~~ 17 members appointed by the Governor, (i) 12 shall be alumni of the Institute, of whom eight shall be residents of the Commonwealth and four shall be nonresidents; ~~and~~; (ii) four shall be nonalumni residents of the Commonwealth; ~~and~~ (iii) *one shall be a student voting member pursuant to subsection H of § 23.1-1300.*

B. The alumni association of the Institute may submit to the Governor a list of not more than three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.

§ 23.1-2601. Membership.

A. The board shall consist of ~~44~~ 15 members, of whom ~~43~~ 14 shall be appointed by the Governor and one shall be the president of the Board of Agriculture and Consumer Services, who shall serve ex officio. Of the ~~43~~ 14 members appointed by the Governor, at least 10 members shall be residents of the Commonwealth and at least six members shall be alumni of the University. All appointments by the Governor are subject to confirmation by the Senate.

B. The alumni association of the University may submit to the Governor a list of three nominees for each vacancy on the board, whether it occurs by expired term or otherwise. The Governor may appoint a member from the list of nominees.

§ 23.1-2701. Membership.

A. The board shall consist of ~~45~~ 16 members appointed by the Governor, of whom at least three shall be alumni of the University and at least 10 shall be residents of the Commonwealth.

B. The alumni association of the University may submit to the Governor a list of three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.

§ 23.1-2801. Membership.

A. The board shall consist of ~~47~~ 18 members appointed by the Governor, of whom at least 13 shall be residents of the Commonwealth.

B. The alumni association of the university may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.

§ 23.1-2902. State Board; membership.

A. The State Board shall consist of ~~45~~ 16 nonlegislative citizen members appointed by the Governor subject to confirmation by the General Assembly.

B. Each member shall be a resident of the Commonwealth. No officer, employee, or member of the governing board of any public institution of higher education or of any school subject to the control of the State Board and no member of the Board of Education is eligible for appointment to the State Board. All members of the State Board are members at large charged with the responsibility of serving the best interests of the whole Commonwealth, and no member shall act as the representative of any particular region or institution of higher education.