

# VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

## CHAPTER 437

*An Act to amend and reenact §§ 22.1-350, 22.1-352, 23-7.4:2, 23-14, 23-31, 23-91.20, 23-91.23, 23-231.2, 23-231.3, 23-231.4, and 23-231.5 of the Code of Virginia, relating to Clinch Valley College.*

[H 2625]

Approved March 25, 1999

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-350, 22.1-352, 23-7.4:2, 23-14, 23-31, 23-91.20, 23-91.23, 23-231.2, 23-231.3, 23-231.4, and 23-231.5 of the Code of Virginia are amended and reenacted as follows:**

§ 22.1-350. Southwest Virginia Public Education Consortium created; region defined; governing board.

A. The Southwest Virginia Public Education Consortium is hereby established and shall be referred to in this chapter as the Consortium. For the purposes of this chapter and the work of the Consortium, "Southwest Virginia" shall include the Counties of Bland, Buchanan, Carroll, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe, and the Cities of Bristol, Galax, and Norton. The governing board of the Consortium shall consist of the school superintendents of the named localities; the chancellor or his designee of ~~Clinch Valley College~~ *the University of Virginia's College at Wise*; the presidents or their designees of Emory & Henry College, Virginia Intermont College, Bluefield College, Mountain Empire Community College, Virginia Highlands Community College, Southwest Virginia Community College, and Wytheville Community College; and the Director of the Southwest Virginia Higher Education Center. The region's legislators shall serve as nonvoting, advisory members of the board.

B. Members of the board shall be reimbursed for their actual expenses incurred in the performance of their duties in the work of the Consortium, except that legislative members shall be reimbursed pursuant to § ~~14.1-19.1~~ *30-19.16*. The board shall elect a chairman and a vice-chairman from among its members.

§ 22.1-352. Executive director; staff support; location.

From such funds as may be appropriated or received, the board of the Consortium may appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Consortium to perform its duties as set forth in this chapter. The board is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be appropriated or received. The Consortium's offices shall be housed at ~~Clinch Valley College~~ *the University of Virginia's College at Wise*.

§ 23-7.4:2. Eligibility for in-state or reduced tuition for students not domiciled in Virginia; members of the National Guard of the Commonwealth of Virginia.

A. A nonmilitary student whose parent or spouse is a member of the armed forces may establish domicile in the same manner as any other student. However, a nonmilitary student, not otherwise eligible for in-state tuition, whose parent or spouse is a member of the military residing in the Commonwealth pursuant to military orders and claiming a state other than Virginia on their State of Legal Residence Certificate, shall be entitled to in-state tuition charges when the following conditions are met: (i) if the student is a child of a member of the armed forces, then the nonmilitary parent shall have, for at least one year immediately prior to the date of alleged entitlement for in-state tuition charges, resided in Virginia, been employed full time and paid individual income taxes to Virginia. Such student shall be eligible for in-state tuition charges only if the nonmilitary parent claims him as a dependent for Virginia and federal income tax purposes, as evidenced by claiming him as a dependent on an individual or joint return; or (ii) if the student is the spouse of a member of the armed forces, then such student shall have, for at least one year immediately prior to the date of alleged entitlement for in-state tuition, resided in Virginia, been employed full time and paid individual income taxes to Virginia; or (iii) if the student is the child or the spouse of a member of the armed forces, then the student shall be entitled to in-state tuition charges for a maximum of one year during the period that the military parent or spouse is residing in the Commonwealth. Any student whose spouse or parent is a member of the armed forces shall be eligible for in-state tuition charges for so long as the conditions of clauses (i) and (ii) of this subsection continue to be met. Military dependents provided in-state tuition for one year during the period the military parent or spouse is residing in Virginia shall be counted as out-of-state students for admissions, enrollment and tuition and fee revenue policy purposes.

B. Students who live outside this Commonwealth and have been employed full time inside Virginia for at least one year immediately prior to the date of the alleged entitlement for in-state tuition shall be eligible for in-state tuition charges if such student has paid Virginia income taxes on all taxable income

earned in this Commonwealth for the tax year prior to the date of the alleged entitlement. Students claimed as dependents for federal and Virginia income tax purposes who live outside this Commonwealth shall become eligible for in-state tuition charges if the nonresident parents claiming them as dependents have been employed full time inside Virginia for at least one year immediately prior to the date of the alleged entitlement and paid Virginia income taxes on all taxable income earned in this Commonwealth for the tax year prior to the date of the alleged entitlement. Such students shall continue to be eligible for in-state tuition charges for so long as they or their qualifying parent is employed full time in Virginia, paying Virginia income taxes on all taxable income earned in this Commonwealth and the student is claimed as a dependent for Virginia and federal income tax purposes.

C. Any person who (i) is a member of the National Guard of the Commonwealth of Virginia and has a minimum remaining obligation of two years, (ii) has satisfactorily completed required initial active duty service, (iii) is satisfactorily performing duty in accordance with regulations of the National Guard, and (iv) is enrolled in any state institution of higher education, any private, accredited and nonprofit institution of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education, any course or program offered by any such institution or any public vocational or technical school shall be eligible for a grant in the amount of one-half of the tuition not exceeding \$500 per term, semester or quarter. No person shall receive grants totaling more than \$1,000 in any one year. Application for a grant shall be made to the Department of Military Affairs. Grants shall be awarded from funds available for the purpose by such Department.

D. Notwithstanding the provisions of § 23-7.4 or any other provision of the law to the contrary, the governing board of any state institution of higher education or the governing board of the Virginia Community College System may charge the same tuition as is charged to any person domiciled in Virginia pursuant to the provisions of § 23-7.4 to:

1. Any person enrolled in one of the institution's programs designated by the State Council of Higher Education who is domiciled in and is entitled to reduced tuition charges in the institutions of higher learning in any state which is a party to the Southern Regional Education Compact which has similar reciprocal provisions for persons domiciled in Virginia;

2. Any student from a foreign country who is enrolled in a foreign exchange program approved by the state institution during the same period that an exchange student from the same state institution, who is entitled to in-state tuition pursuant to § 23-7.4, is attending the foreign institution; and

3. Any high school or magnet school student, not otherwise qualified for in-state tuition, who is enrolled in courses specifically designed as part of the high school or magnet school curriculum in a community college for which he may, upon successful completion, receive high school and community college credit pursuant to a dual enrollment agreement between the high school or magnet school and the community college.

E. The governing board of the Virginia Community College System may charge reduced tuition to any person enrolled in one of the System's institutions who lives within a thirty-mile radius of a Virginia institution, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in any state which is contiguous to Virginia and which has similar reciprocal provisions for persons domiciled in Virginia.

F. The advisory board of ~~Clinch Valley College~~ *the University of Virginia's College at Wise* and the board of visitors of the University of Virginia may charge reduced tuition to any person enrolled at ~~Clinch Valley College~~ *the University of Virginia's College at Wise* who lives within a fifty-mile radius of the ~~College~~ *University of Virginia's College at Wise*, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in Kentucky, if Kentucky has similar reciprocal provisions for persons domiciled in Virginia.

Any out-of-state students granted in-state tuition pursuant to this subsection and subsection E shall be counted as out-of-state students for the purposes of determining admissions, enrollment, and tuition and fee revenue policies.

G. Public institutions of higher education may enter into special arrangement contracts with Virginia employers or authorities controlling federal installations or agencies located in Virginia. The special arrangement contracts shall be for the purpose of providing reduced rate tuition charges for the employees of the Virginia employers or federal personnel when the employers or federal authorities are assuming the liability for paying, to the extent permitted by federal law, the tuition for the employees or personnel in question and the employees or personnel are classified by the requirements of this section as out-of-state.

Special arrangement contracts with Virginia employers or federal installations or agencies may be for group instruction in facilities provided by the employer or federal authority or in the institution's facilities or on a student-by-student basis for specific employment-related programs.

Special arrangement contracts shall be valid for a period not to exceed two years and shall be reviewed for legal sufficiency by the Office of the Attorney General prior to signing. All rates agreed to by the public institutions shall be at least equal to in-state tuition and shall only be granted by the institution with which the employer or the federal authorities have a valid contract for students for

whom the employer or federal authorities are paying the tuition charges.

All special arrangement contracts with authorities controlling federal installations or agencies shall include a specific number of students to be served at reduced rates.

Nothing in this subsection shall change the domiciliary status of any student for the purposes of enrollment reporting or calculating the proportions of general funds and tuition and fees contributed to the cost of education.

§ 23-14. Certain educational institutions declared governmental instrumentalities; powers vested in majority of members of board.

The College of William and Mary in Virginia, at Williamsburg; the rector and visitors of Christopher Newport University, at Newport News; Longwood College, at Farmville; the Mary Washington College, at Fredericksburg; ~~Clinch Valley College of the University of Virginia, at Wise~~; George Mason University, at Fairfax; the James Madison University, at Harrisonburg; Old Dominion University, at Norfolk; the State Board for Community Colleges, at Richmond; the Virginia Commonwealth University, at Richmond; the Radford University, at Radford; the rector and visitors of the University of Virginia, at Charlottesville; *the University of Virginia's College at Wise*; the Virginia Military Institute, at Lexington; the Virginia Polytechnic Institute and State University, at Blacksburg; the Virginia Schools for the Deaf and the Blind; the Virginia State University, at Petersburg; Norfolk State University, at Norfolk; the Woodrow Wilson Rehabilitation Center, at Fishersville; and the Medical College of Hampton Roads, are hereby classified as educational institutions and are declared to be public bodies and constituted as governmental instrumentalities for the dissemination of education. The powers of every such institution derived directly or indirectly from this chapter shall be vested in and exercised by a majority of the members of its board, and a majority of such board shall be a quorum for the transaction of any business authorized by this chapter. Wherever the word "board" is used in this chapter, it shall be deemed to include the members of a governing body designated by another title.

§ 23-31. Unfunded scholarships.

A. The corporate authorities of the University of Virginia, *the University of Virginia's College at Wise*, Virginia Military Institute, Virginia Polytechnic Institute and State University, The College of William and Mary, Christopher Newport University, George Mason University, ~~Clinch Valley College~~, Longwood College, Mary Washington College, James Madison University, Virginia Commonwealth University, Radford University, Old Dominion University, the Virginia Community College System, Virginia State University, Norfolk State University, and Richard Bland College may establish scholarships, hereafter to be designated as unfunded scholarships, in their respective institutions under such regulations and conditions as they may prescribe, but subject to the following limitations and restrictions:

1. All such scholarships shall be applied exclusively to the remission, in whole or in part, of tuition and required fees.

2. The number of such scholarships annually awarded by an institution to undergraduate Virginia students shall not exceed twenty percent of the enrollment of Virginia students in undergraduate studies in the institution during the preceding academic year. The total value of all such scholarships annually awarded by an institution to undergraduate Virginia students shall not exceed in any year the amount arrived at by multiplying the applicable figure for undergraduate tuition and required fees by twenty percent of the enrollment of Virginia students in undergraduate studies in the institution during the preceding academic year. The number of such scholarships annually awarded by an institution to non-Virginia undergraduate students shall not exceed twenty percent of the enrollment of non-Virginia students in undergraduate studies in the institution during the preceding academic year. The total value of all such scholarships annually awarded by an institution to non-Virginia undergraduate students shall not exceed in any year the amount of the applicable, per capita out-of-state differential paid by non-Virginia undergraduate students for tuition and required fees multiplied by twenty percent of the enrollment of non-Virginia students in undergraduate studies in the institution during the preceding academic year. All such scholarships awarded to undergraduate students shall be awarded only to undergraduate students in the first four years of undergraduate work and shall be awarded and renewed on a selective basis to students of character and ability who are in need of financial assistance. For purposes of determining need under this section, a nationally recognized needs-analysis system approved by the State Council of Higher Education shall be used.

3. The number of such scholarships annually awarded by an institution to graduate students or teachers serving as clinical faculty pursuant to § 22.1-290.1 shall not exceed the total number of graduate students who are employed as teaching or research assistants with significant academic responsibilities and who are paid a stipend of at least \$2,000 in the particular academic year and such clinical faculty. The total value of all such scholarships annually awarded to such graduate students and clinical faculty shall not exceed in any year the amount arrived at by multiplying the applicable figure for graduate tuition and required fees by the number of graduate students so employed and paid and such clinical faculty. All graduate scholarships shall be awarded and renewed on a selective basis to such graduate students and clinical faculty of character and ability.

4. A scholarship awarded under this program shall entitle the holder to the following award, as

appropriate:

- a. A Virginia undergraduate student may receive an annual remission of an amount not to exceed the cost of tuition and fees required to be paid by the student;
- b. A non-Virginia undergraduate student may receive an annual remission not to exceed the amount of the out-of-state differential required to be paid by the student for tuition and fees;
- c. A qualified graduate student may receive an annual remission of an amount not to exceed the cost of tuition and fees required to be paid by the student;
- d. A clinical faculty member may receive an award as determined by the governing body of the institution.

5. Notwithstanding the limitations on the awards of unfunded scholarships to undergraduate students pursuant to subdivisions A 2 and A 4 of this section, an institution may award additional unfunded scholarships to visiting foreign exchange students; however, the number of such awards in any fiscal year shall not exceed one quarter of one percent of the total institutional headcount enrollment.

B. No institution named herein shall remit any tuition or required fees or any special fees or charges; to any student at such institution except as authorized in this section. Each institution named herein shall make an annual report to the State Council of Higher Education showing the number and value of scholarships awarded under this section according to each student classification.

C. Nothing in this section shall be construed to prevent or limit in any way the admission of certain students, known as state cadets, at the Virginia Military Institute or to affect the remission of tuition or required fees or other charges to such state cadets as permitted under existing law.

D. Nothing in this section shall be construed to affect or limit in any way the control of the governing bodies of the respective institutions over any other scholarships; or over any gifts or donations made to such institutions for scholarships or other special purposes; or over any funds provided by the federal government or otherwise for the purpose of vocational education or vocational rehabilitation in this Commonwealth; or over any funds derived from endowment or appropriations from the federal government for instruction in agriculture and mechanic arts in land grant colleges.

E. Nothing in this section shall be construed to prevent the governing bodies of the respective institutions from fixing a reasonably lower tuition charge for Virginia students than for non-Virginia students.

F. Nothing in this section or any other provision of law shall prohibit the awarding of ten full tuition unfunded scholarships each year by Old Dominion University under the terms and conditions provided for in a deed conveying certain property in Norfolk known as the Old Larchmont School made July 5, 1930, between the City of Norfolk and The College of William and Mary.

Article 9.

~~Clinch Valley College~~ *The University of Virginia's College at Wise.*

§ 23-91.20. Institution a division of University of Virginia under supervision, etc., of rector and visitors; authorized to grant degrees.

~~Clinch Valley College heretofore [before September 1, 1968]~~ *The University of Virginia's College at Wise*, established in Wise County, Virginia, is ~~continued~~. It shall be a division of the University of Virginia. It shall be a four-year college with the right to prepare students for the granting of degrees upon graduation therefrom. It shall be an integral part of the University of Virginia and be subject to the supervision, management and control of the rector and visitors of the University of Virginia.

§ 23-91.23. Validation of prior acts and proceedings of rector and visitors.

All acts and proceedings heretofore [before September 1, 1968] taken by the rector and visitors of the University of Virginia with respect to the establishment and maintenance of the ~~Clinch Valley College~~ *University of Virginia's College at Wise*, including all contracts, loan agreements and other agreements of whatsoever nature, are hereby ratified, validated and confirmed.

§ 23-231.2. Southwest Virginia Higher Education Center created; duties.

From such funds as may be appropriated, the Southwest Virginia Higher Education Center is hereby established and shall be referred to in this chapter as the Center. The Center shall:

1. Encourage the expansion of higher education, including adult and continuing education, associate degrees to be offered by Virginia Highlands Community College, undergraduate degrees to be offered by ~~Clinch Valley College~~ *the University of Virginia's College at Wise*, and graduate degree programs, in the Southwest region of the Commonwealth and foster partnerships between the public and private sectors to enhance higher education in the region;

2. Coordinate the development and delivery of continuing education programs offered by those educational institutions serving the region;

3. Facilitate the delivery of teacher training programs leading to licensure and graduate degrees;

4. Serve as a resource and referral center by maintaining and disseminating information on existing educational programs and resources; and

5. Develop, in coordination with the State Council of Higher Education for Virginia, specific goals for higher education in Southwest Virginia.

§ 23-231.3. Membership of governing board; terms; compensation; officers.

A. The Center shall be governed by a Board of Trustees, consisting of the Director of the State Council of Higher Education for Virginia or his designee, the Chancellor of the Virginia Community College System or his designee, the presidents *or chancellors, as appropriate*, or their designees of Virginia Polytechnic Institute and State University, Radford University, the University of Virginia, ~~Clinch Valley College~~ *the University of Virginia's College at Wise*, Emory & Henry College, and Virginia Highlands Community College, and five citizen members to be appointed by the Governor, representing Southwest public education and area business and industry, including one school division superintendent and one public school teacher. Five members of the General Assembly, including three members of the House of Delegates to be appointed by the Speaker and two members of the Senate to be appointed by the Senate Committee on Privileges and Elections, shall serve as ex officio members of the Board with full voting privileges. Citizen members of the Board shall be chosen from among residents of the Southwest region of the Commonwealth.

B. Legislative members and the representatives of the State Council, the Virginia Community College System, and the named institutions of higher education shall serve on the Board until the expiration of their terms of office or until their successors shall qualify. Of the five citizen members to be appointed in 1991, two shall be appointed for three-year terms, and three shall be appointed for four-year terms. Thereafter, all such citizen appointments shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms.

No citizen member of the Board shall be eligible to serve for or during more than two successive four-year terms, but after the expiration of a term of three years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional four-year terms may be served by such member if appointed thereto.

C. Legislative members of the Board shall be compensated as specified in § ~~14-148~~ *30-19.12*, and all members of the Board shall be reimbursed for their actual expenses incurred in the performance of their duties in the work of the Center.

D. The Board shall elect a chairman and a vice-chairman from among its members.

§ 23-231.4. Powers of Board; contracts for educational services.

A. The Board of Trustees shall have, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1, except in those cases where, by the express terms of its provisions, it is confined to corporations created under that title. The Board shall also have the power to accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

B. The Board shall have the authority to establish and administer agreements with public institutions of higher education in the Commonwealth to provide graduate level instructional programs at the Center

and with Emory & Henry College for the provision of graduate degree instructional programs in education at the Center. The Board shall be empowered to establish and administer agreements with ~~Clinch Valley College~~ *the University of Virginia's College at Wise* and Emory & Henry College for the provision of upper level undergraduate instructional programs at the Center and with Virginia Highlands Community College for the provision of associate degree instructional programs at the Center.

§ 23-231.5. Executive director; powers and duties; staff.

A. The Board shall appoint an executive director for the Center who shall supervise and manage the Center and shall prepare and submit, upon direction and approval by the Board, all requests for appropriations. The Executive Director of the Center shall be authorized to employ such staff as necessary to enable the Center to perform its duties as set forth in this chapter. The Board is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be appropriated or received.

B. Additional staff support for the functions of the Center may be provided upon agreement by Virginia Polytechnic Institute and State University, the University of Virginia, ~~Clinch Valley College~~ *the University of Virginia's College at Wise*, and Virginia Highlands Community College.

**2. That wherever in the Code of Virginia or Acts of Assembly references to Clinch Valley College appear, they shall mean the University of Virginia's College at Wise.**