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HOUSE BILL NO. 1897

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 26, 2015)

(Patron Prior to Substitute—Delegate Cox)

A BILL to amend the Code of Virginia by adding a section numbered 23-1.2 and adding in Title 30 a chapter numbered 57, consisting of sections numbered 30-359 through 30-361, relating to intercollegiate athletics programs; Intercollegiate Athletics Review Commission.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 23-1.2 and adding in Title 30 a chapter numbered 57, consisting of sections numbered 30-359 through 30-361 as follows:

§ 23-1.2. *Intercollegiate athletics programs.*

A. For the purposes of this section:

"Athletics revenue" means the total revenue received by an institution that is generated by any of the institution's intercollegiate athletics programs. "Athletics revenue" includes contributions; game guarantees; income received from endowments and investments; income received from the sale of food, game programs, novelties, and other concessions at an intercollegiate athletics contest; income received from intercollegiate athletics conferences for participation in bowl games, tournaments, and other intercollegiate athletics contests; income received from the provision of parking at intercollegiate athletics contests or other events associated with intercollegiate athletics; rights and licensing; school funds; student fees; support from third parties guaranteed by the institution, such as income received from athletics camps, income received from television, and housing allowances; and all other income from any other source generated by the institution's intercollegiate athletics programs.

"Contributions" means any income received directly from individuals, corporations, associations, foundations, clubs, or other donors for the operation of an institution's intercollegiate athletics programs. "Contributions" includes amounts paid in excess of the face value of an admissions ticket to an intercollegiate athletics contest or any other event associated with intercollegiate athletics; cash; marketable securities; income generated from preferential seating arrangements at intercollegiate athletics contests or other events associated with intercollegiate athletics; and in-kind contributions such as cars provided to an intercollegiate athletics program by car dealers at no cost and apparel and sports drink products provided to intercollegiate athletes and coaches at no cost.

"Generated revenue" means all athletics revenue with the exception of the subsidy.

"Institution" means a four-year public institution of higher education in the Commonwealth.

"Intercollegiate athletics program" means any athletics program for a particular sport that is operated by an institution and governed by the National Collegiate Athletic Association (NCAA).

"Rights and licensing" includes income from radio and television broadcasts; Internet and e-commerce rights resulting from institution-negotiated contracts; revenue-sharing agreements with the NCAA or an intercollegiate athletics conference; licensing; the sale of advertisements, trademarks, or royalties; corporate sponsorships; and the value of in-kind contributions of products and services provided to an intercollegiate athletics program at no cost as part of such corporate sponsorship, such as equipment, apparel, isotonic sports drinks, other sports drink products, or water.

"School funds" means the direct and indirect financial support provided by the institution to any of its intercollegiate athletics programs. "School funds" includes state funds, tuition, tuition waivers, federal work awards for student athletes, administrative costs, facilities and grounds maintenance, security, risk management, utilities, and depreciation and debt services.

"Student fees" means any fees assessed by an institution against a student that are used to support any of the institution's intercollegiate athletics programs.

"Subsidy" means the sum of school funds and student fees.

"Subsidy percentage" means the subsidy divided by the athletics revenue, provided that revenues allocated to (i) support spirit groups associated with any intercollegiate athletics program, (ii) meet any indirect cost policy requirements, or (iii) debt service for previously approved intercollegiate athletics capital outlay projects may be excluded from the subsidy for the purposes of such calculation.

"Ticket sales" means the sale of the right to gain admission to an intercollegiate athletics contest or any other event associated with intercollegiate athletics. "Ticket sales" includes sums received from any associated shipping and handling charges and includes sales to the public, faculty, and students. "Ticket sales" does not include (i) amounts paid in excess of the face value of an admissions ticket to an intercollegiate athletics contest or any other event associated with intercollegiate athletics such as preferential seating arrangements or (ii) pass-through sales transactions such as sales for admission tickets to bowl games and conference and national tournaments.

B. No later than November 1, 2015, the Auditor of Public Accounts, in collaboration with the State Council of Higher Education for Virginia, the State Comptroller, the Department of Planning and Budget, and each institution, shall develop and implement a standardized reporting format for each institution to annually report its intercollegiate athletics revenue and expenses to the Auditor of Public Accounts that shall include treatment of student fees and classification of specific intercollegiate athletics programs and shall require expenses for spirit groups, indirect cost policy requirements, and debt service for previously approved intercollegiate athletics capital outlay projects and other intercollegiate athletics capital outlay projects to be reported on separate lines.

C. The subsidy percentage shall not exceed:

1. 20 percent for NCAA Division I-A institutions affiliated with the Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern Conference;

2. 55 percent for NCAA Division I-A institutions affiliated with conferences other than the Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern Conference.

3. 70 percent for NCAA Division I-AA institutions;

4. 78 percent for NCAA Division I-AAA institutions;

5. 81 percent for NCAA Division II institutions that operate intercollegiate football programs;

6. 85 percent for NCAA Division II institutions that do not operate intercollegiate football programs;

7. 89 percent for NCAA Division III institutions that operate intercollegiate football programs; and

8. 92 percent for NCAA Division III institutions that do not operate intercollegiate football programs.

D. Effective with the fiscal year beginning July 1, 2016, any percentage increase in the subsidy at an institution that complies with subsection C shall be matched by a like percentage increase in generated revenue, except that each such institution shall utilize a rolling average of the change in generated revenue and student fees over the immediately preceding five years for the purposes of such calculation.

E. When necessary, each institution shall submit to the Governor and the General Assembly for approval a plan that reduces the subsidy in accordance with targets outlined in the plan over a five-year period until the subsidy percentage complies with the requirements of subsection C.

F. The Auditor of Public Accounts shall annually review each institution's progress towards meeting the requirements of each plan approved pursuant to subsection E as part of his annual audit pursuant to § 30-133.

G. Failure to meet the progress requirements of each plan approved pursuant to subsection E for one year, as determined by the Auditor of Public Accounts, shall result in such reduction of the financial and administrative operations authority granted to the institution pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23-38.88 et seq.) as the Governor or General Assembly determines.

H. Failure to meet the progress requirements of each plan approved pursuant to subsection E for two consecutive years, as determined by the Auditor of Public Accounts, shall result in revocation of all financial and administrative operations authority granted to the institution pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23-38.88 et seq.).

I. The board of visitors of any institution that seeks to add a major intercollegiate athletics program such as football or basketball or change the division level of any of its existing intercollegiate athletics programs shall first submit to the Intercollegiate Athletics Review Commission (Commission) established pursuant to Chapter 57 (§ 30-359 et seq.) of Title 30 a plan and recommendations for financing the addition or change. The institution shall not in any way undertake any such addition or agree or commit to any such change until it has received the findings and recommendations of the Commission pursuant to § 30-360. Any such addition or change shall be subject to the approval of the General Assembly expressed in the general appropriation act. The board of visitors of any institution that adds a non-major intercollegiate athletics program shall report such decision within 15 days of the board's action.

CHAPTER 57.

INTERCOLLEGIATE ATHLETICS REVIEW COMMISSION.

§ 30-359. **Intercollegiate Athletics Review Commission; purpose; membership; terms; compensation and expenses.**

A. As used in this chapter, "Commission" means the Intercollegiate Athletics Review Commission.

B. The Commission is established as an advisory commission in the legislative branch of state government. The purpose of the Commission is to review the plan and financing recommendations of the board of visitors of any public institution of higher education in the Commonwealth relating to the institution adding a major intercollegiate athletics program such as football or basketball or changing the division level of any of its existing intercollegiate athletics programs as set forth in subsection I of § 23-1.2.

C. The Commission shall consist of eleven members as follows: the chair of the House Committee on

Appropriations, or his designee, and three members of the House Committee on Appropriations appointed by the chair and the chair of the Senate Committee on Finance, or his designee, and two members of the Senate Committee on Finance appointed by the chair. In addition, the Auditor of Public Accounts, the Secretary of Education, the Secretary of Finance, and the Director of the State Council of Higher Education for Virginia shall serve as *ex officio*, nonvoting members of the Commission.

D. Members shall serve terms coincident with their terms of office. Vacancies for unexpired terms shall be filled in the same manner as the original appointments.

E. The members of the Commission shall elect a chairman and vice-chairman annually. A majority of the voting members of the Commission shall constitute a quorum. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request.

F. Members of the Commission shall receive such compensation and reimbursement of expenses as provided in the general appropriation act.

§ 30-360. Review of plans to add a major intercollegiate athletics program or change the division level of an existing intercollegiate athletics program.

A. Within two business days of receipt of a plan and financing recommendations for changing the division level of any existing intercollegiate athletics program pursuant to subsection I of § 23-1.2, the Commission shall review the plan and notify the board of visitors of the public institution of higher education of its findings and recommendations.

B. Within 45 business days of receipt of a plan and financing recommendations for adding a major intercollegiate athletics program such as football or basketball pursuant to subsection I of § 23-1.2, the Commission shall review the plan and notify the board of visitors of the public institution of higher education of its findings and recommendations.

C. Findings and recommendations of the Commission may relate to (i) the potential financial impact of the addition of a major intercollegiate athletics program or a change in the division level of an existing intercollegiate athletics program upon the Commonwealth and students, (ii) the potential impact on the subsidy percentage, as that term is defined in § 23-1.2, or (iii) the policy aspects of such an addition or change. Review by the Commission shall not be construed to constitute approval of any appropriations necessary to implement any portion of the plan.

D. Findings and recommendations of the Commission shall require an affirmative vote by three of the five members from the House Committee on Appropriations and two of the three members from the Senate Committee on Finance.

§ 30-361. Staff; cooperation from other state agencies.

Administrative staff support shall be provided by the staffs of the House Committee on Appropriations and the Senate Committee on Finance. Additional assistance as needed shall be provided by the State Council of Higher Education for Virginia.

2. That for the purposes of this act, Old Dominion University (University) shall be considered a Division I-AA institution until July 1, 2020, and if the University continues to operate a Division I-A intercollegiate football program on July 1, 2020, the University shall subsequently be considered a Division I-A institution.

3. That for the purposes of this act, The University of Virginia's College at Wise (College) shall be considered a Division III institution until July 1, 2020, and if the College is made a full member of the NCAA Division II athletic program by July 1, 2020, the College shall subsequently be considered a Division II institution.

4. That the provisions of this act shall become effective on July 1, 2016.