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HOUSE BILL NO. 249

Offered January 10, 2018

Prefiled January 2, 2018

A BILL to amend and reenact §§ 23.1-307, 23.1-509.1, and 23.1-1301 of the Code of Virginia, relating to baccalaureate public institutions of higher education; fixed in-state tuition rates.

Patrons—Miyares and Reid

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-307, 23.1-509.1, 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 limitations set forth in § 23.1-509.1, 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.

§ 23.1-509.1. Fixed in-state tuition rates; alternative tuition or fee structures.

A. *The governing board of each baccalaureate public institution of higher education shall annually establish a fixed in-state tuition rate for each incoming first year or transfer undergraduate Virginia student. Each such incoming first year student enrolled in a four-year baccalaureate degree program is eligible to pay in-state tuition at a rate not to exceed such fixed rate for four academic years or any portion or term thereof, provided that such student maintains continuous enrollment. Each such incoming transfer student enrolled in a four-year baccalaureate degree program is eligible to pay in-state tuition at a rate not to exceed such fixed rate for the remainder of the academic years or any portion or term thereof during which he makes satisfactory progress toward completing such degree program, provided that such student maintains continuous enrollment.*

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59 *B. The governing board of each baccalaureate public institution of higher education may grant (i) an*
60 *exception to the requirement for continuous enrollment set forth in subsection A on a case-by-case basis*
61 *to students whose enrollment is substantially disrupted or (ii) any other exception to the requirements*
62 *set forth in subsection A that the governing board deems appropriate, including an exception for eligible*
63 *students who are enrolled in baccalaureate degree programs that require five academic years to*
64 *complete.*

65 C. Any public institution of higher education may offer alternative tuition or fee structures to
66 students that result in lower costs of attendance, including discounted tuition, ~~flat tuition rates~~,
67 discounted student fees, or student fee and student services flexibility, to any first-time, incoming
68 freshman undergraduate student who (i) has established domicile, as that term is defined in § 23.1-500,
69 in the Commonwealth and (ii) enrolls full time with the intent to earn a degree in a program that leads
70 to employment in a high-demand field in the region. Such an alternative tuition or fee structure may be
71 renewed each year if the recipient maintains eligibility for the alternative tuition and fee structure. The
72 State Council of Higher Education for Virginia shall offer guidance, upon request, to any public
73 institution of higher education in establishing an alternative tuition or fee structure pursuant to this
74 section.

75 **§ 23.1-1301. Governing boards; powers.**

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

- 78 1. Make regulations and policies concerning the institution;
- 79 2. Manage the funds of the institution and approve an annual budget;
- 80 3. Appoint the chief executive officer of the institution;
- 81 4. Appoint professors and fix their salaries; and
- 82 5. ~~Fix~~ *Subject to the limitations set forth in § 23.1-509.1, fix* the rates charged to students for
83 tuition, mandatory fees, and other necessary charges.

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

- 85 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative
86 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has
87 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms
88 and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and
89 administered in the same manner as all other gifts and bequests;
- 90 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other
91 purposes on any property owned by the institution;
- 92 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,
93 maintained, or controlled by the institution;
- 94 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,
95 instructors, and other employees;
- 96 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to
97 the regulations or institution policies required pursuant to § 23.1-1303;
- 98 6. Adopt regulations or institution policies for the conduct of students in attendance and for the
99 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide
100 by such regulations or policies;
- 101 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to
102 promote (i) student compliance with state laws on the use of alcoholic beverages and (ii) the awareness
103 and prevention of sexual crimes committed upon students;
- 104 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority
105 in accordance with the prohibition against hazing as defined in § 18.2-56;
- 106 9. Assign any interest it possesses in intellectual property or in materials in which the institution
107 claims an interest, provided such assignment is in accordance with the terms of the institution's
108 intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is
109 required for transfers of such property (i) developed wholly or predominantly through the use of state
110 general funds, exclusive of capital assets and (ii) (a) developed by an employee of the institution acting
111 within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1)
112 the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage
113 intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity
114 whose purpose is to benefit the respective institutions. The Governor may attach conditions to these
115 transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials
116 shall remain the property of the respective institutions and may be used and developed in any manner
117 permitted by law;
- 118 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state
119 public body" for purposes of subsection B of § 2.2-3708; and
- 120 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution

121 to enforce state statutes and local ordinances with respect to offenses occurring on the property of the
122 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes
123 and local ordinances with respect to offenses occurring on the property of the institution.

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