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SENATE BILL NO. 1461

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education
on February 13, 2019)

(Patron Prior to Substitute—Senator McClellan)

A *BILL to amend and reenact § 23.1-226 of the Code of Virginia, relating to the State Council of Higher Education for Virginia; regulation of certain programs of tutorial instruction; exemptions.*

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-226 of the Code of Virginia is amended and reenacted as follows:

§ 23.1-226. Exemptions.

A. The provisions of this article shall not apply to any public institution of higher education as that term is defined in § 23.1-100 or any entity authorized to issue bonds pursuant to Chapter 11 (§ 23.1-1100 et seq.).

B. The following activities or programs offered by postsecondary schools that are otherwise subject to this article are exempt from its provisions:

1. The awarding of any honorary degree conferred that clearly states on its face that it is honorary in nature and is regarded as (i) commemorative in recognition of an individual's contributions to society and (ii) not representative of the satisfactory completion of any or all of the requirements of a program or course of study;

2. A nursing education program or curriculum regulated by the Board of Nursing;

3. A professional or occupational training program subject to the approval of (i) a regulatory board pursuant to Title 54.1 or (ii) another state or federal governmental agency;

4. Any course or program of instruction provided or approved by any professional body, fraternal organization, civic club, or benevolent order for which the principal purpose is continuing or professional education or a similar purpose and for which no degree credit is awarded;

5. Any course or program offered through approved multistate compacts, including the Southern Regional Education Board's Electronic Campus;

6. Any course offered and delivered by a postsecondary school solely on a contractual basis for which no individual is charged tuition and there is no advertising for open enrollment;

7. Any school, institute, or course of instruction offered by any trade association or any nonprofit affiliate of a trade association on subjects relating to the trade, business, or profession represented by such association;

8. Any public or private high school accredited or recognized by the Board of Education that has offered or may offer one or more courses as provided in this article, if the school collects any tuition, fees, or charges as permitted by Title 22.1 in the case of a public school or pursuant to regulations prescribed by the relevant governing body in the case of a private school; or

9. Tutorial instruction delivered and designed to (i) supplement regular classes for students enrolled in any public or private school or, (ii) prepare an individual for an examination for professional practice or higher education, or (iii) prepare an individual for an examination to demonstrate proficiency or to maintain proficiency in an occupational field.

C. The Council shall exempt from the provisions of this article any postsecondary school whose primary purpose is to provide religious or theological education. Postsecondary schools shall apply for exemptions to confer certificates or degrees relating to religion and theology. Exemptions may be granted for a maximum of five years, unless the postsecondary school has been granted a standing exemption prior to July 1, 2002. Each postsecondary school seeking such an exemption or continuation of such an exemption shall file such information as may be required by the Council. If the Council does not grant a postsecondary school an exemption, the postsecondary school shall be notified in writing with the reasons for the exemption denial. The affected postsecondary school has the right to appeal the Council's decision pursuant to Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of Title 2.2. The Council shall, in each instance, determine the applicability of the exemption as provided in this section.

D. Notwithstanding the exemptions provided in this section, exempted postsecondary schools are subject to the provisions of subsection B of § 23.1-221 and a postsecondary school may seek Council approval for an otherwise exempt activity or program.