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## SENATE BILL NO. 1068

Offered January 17, 2020

A *BILL to amend and reenact §§ 23.1-307 and 23.1-1301 of the Code of Virginia, relating to higher education; in-state tuition increases.*

Patron—Kiggans

Referred to Committee on Education and Health

**Be it enacted by the General Assembly of Virginia:****1. That §§ 23.1-307 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 subsection H, 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.

E. Prior to any vote referenced in subsection D, the governing board of each public institution of higher education shall permit public comment on the proposed increase at a meeting, as that term is defined in § 2.2-3701, of the governing board. Each such governing board shall establish policies for such public comment, which may include reasonable time limitations.

F. At any meeting at which the governing board of a public institution of higher education approves an increase in undergraduate tuition and mandatory fees, the governing board shall provide an explanation of any deviation from the projected range provided pursuant to subsection D.

G. No later than August 1 of each year, the Council shall provide to the Governor and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance a report on any increase in undergraduate tuition and mandatory fees at a public institution of higher education, the public comment relating to such increase in undergraduate tuition and mandatory fees, and any deviation in the increase

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59 in undergraduate tuition and mandatory fees from the increase projected in the institutional six-year plan  
60 provided pursuant to § 23.1-306.

61 *H. 1. If the Average Consumer Price Index for all items, all urban consumers (CPI-U), as published*  
62 *by the Bureau of Labor Statistics of the U.S. Department of Labor, from January 1 through December*  
63 *31 of the year immediately preceding the affected academic year is less than or equal to zero, no*  
64 *governing board of a baccalaureate public institution of higher education shall increase the in-state*  
65 *tuition rate charged to undergraduate students for such academic year.*

66 *2. If the CPI-U is greater than zero:*

67 *a. The governing board of a baccalaureate public institution of higher education at which the*  
68 *in-state tuition rate charged to undergraduate students does not meet or exceed the average*  
69 *undergraduate tuition rate across all baccalaureate public institutions of higher education may increase*  
70 *the in-state tuition rate in an amount not to exceed the product of the CPI-U and the average*  
71 *undergraduate tuition rate across all baccalaureate public institutions of higher education; and*

72 *b. The governing board of a baccalaureate public institution of higher education at which the*  
73 *in-state tuition rate charged to undergraduate students meets or exceeds the average undergraduate*  
74 *tuition rate across all baccalaureate public institutions of higher education may increase the in-state*  
75 *tuition rate at a percentage not to exceed the CPI-U.*

76 *3. The provisions of subdivisions 1 and 2 shall apply to the Virginia Community College System if*  
77 *the tuition charged to any Virginia student at a comprehensive community college meets or exceeds the*  
78 *lowest in-state tuition rate charged to undergraduate students at a baccalaureate public institution of*  
79 *higher education.*

80 **§ 23.1-1301. Governing boards; powers.**

81 **A.** The board of visitors of each baccalaureate public institution of higher education or its designee  
82 may:

83 1. Make regulations and policies concerning the institution;

84 2. Manage the funds of the institution and approve an annual budget;

85 3. Appoint the chief executive officer of the institution;

86 4. Appoint professors and fix their salaries; and

87 5. ~~Fix~~ *Subject to the limitation set forth in § 23.1-307, fix* the rates charged to students for tuition,  
88 mandatory fees, and other necessary charges.

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

90 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative  
91 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has  
92 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms  
93 and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and  
94 administered in the same manner as all other gifts and bequests;

95 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other  
96 purposes on any property owned by the institution;

97 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,  
98 maintained, or controlled by the institution;

99 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,  
100 instructors, and other employees;

101 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to  
102 the regulations or institution policies required pursuant to § 23.1-1303;

103 6. Adopt regulations or institution policies for the conduct of students in attendance and for the  
104 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide  
105 by such regulations or policies;

106 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to  
107 promote (i) student compliance with state laws on the use of alcoholic beverages and (ii) the awareness  
108 and prevention of sexual crimes committed upon students;

109 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority  
110 in accordance with the prohibition against hazing as defined in § 18.2-56;

111 9. Assign any interest it possesses in intellectual property or in materials in which the institution  
112 claims an interest, provided such assignment is in accordance with the terms of the institution's  
113 intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is  
114 required for transfers of such property (i) developed wholly or predominantly through the use of state  
115 general funds, exclusive of capital assets and (ii)(a) developed by an employee of the institution acting  
116 within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1)  
117 the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage  
118 intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity  
119 whose purpose is to benefit the respective institutions. The Governor may attach conditions to these  
120 transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials

121 shall remain the property of the respective institutions and may be used and developed in any manner  
122 permitted by law;  
123 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state  
124 public body" for purposes of subsection D of § 2.2-3708.2; and  
125 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution  
126 to enforce state statutes and local ordinances with respect to offenses occurring on the property of the  
127 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes  
128 and local ordinances with respect to offenses occurring on the property of the institution.

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