

SENATE BILL NO. 238

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

on _____)

(Patron Prior to Substitute—Senator Head)

A BILL to amend and reenact §§ 2.2-2905, 22.1-346.2, 22.1-349, and 23.1-812 of the Code of Virginia, relating to Board of Visitors of the Virginia School for the Deaf and the Blind; powers and duties; conditions of employment of certain personnel; executive cabinet established; authority to establish campus police department; powers and duties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2905, 22.1-346.2, 22.1-349, and 23.1-812 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2905. Certain officers and employees exempt from chapter.

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;
6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
8. The presidents and teaching and research staffs of state educational institutions;
9. Commissioned officers and enlisted personnel of the National Guard;
10. Student employees at institutions of higher education and patient or inmate help in other state institutions;
11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees

31 compensated on an hourly or daily basis;

32 12. County, city, town, and district officers, deputies, assistants, and employees;

33 13. The employees of the Virginia Workers' Compensation Commission;

34 14. The officers and employees of the Virginia Retirement System;

35 15. Employees whose positions are identified by the State Council of Higher Education and the boards of
36 the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation,
37 the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute,
38 the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of
39 the Department of Human Resource Management as requiring specialized and professional training;

40 16. Employees of the Virginia Lottery;

41 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and
42 service industries who have a human resources classification of industry worker;

43 18. Employees of the Virginia Commonwealth University Health System Authority;

44 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such
45 employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia.
46 The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center
47 personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State
48 Grievance Procedure (§ 2.2-3000 et seq.);

49 20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy,
50 or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy
51 or administration. An employee serving in either one of these two positions shall be deemed to serve on an
52 employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;

53 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the
54 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

55 22. Officers and employees of the Virginia Port Authority;

56 23. Employees of the Commonwealth Savers Plan;

57 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental
58 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to
59 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure
60 (§ 2.2-3000 et seq.);

25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees;

26. Employees of the Virginia Indigent Defense Commission;

27. Any chief of a campus police department that has been designated by the governing body of a public institution of higher education as exempt, pursuant to § 23.1-809;

28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage Control Authority; ~~and~~

29. Officers and employees of the Fort Monroe Authority; *and*

30. *The faculty of the Virginia School for the Deaf and the Blind, in accordance with § 22.1-346.2.*

§ 22.1-346.2. Board of Visitors of the Virginia School for the Deaf and the Blind established.

A. As used in this section:

"Deaf" means having a hearing impairment so severe as to impair the individual from processing linguistic information through hearing, with or without amplification, that adversely affects such individual's educational performance.

"Hard of hearing" means having an impairment in hearing in one or both ears, with or without amplification, whether permanent or fluctuating, that adversely affects an individual's educational performance. "Hard of hearing" does not include "deaf."

"Vision impaired" means having an impairment in vision that, even with correction, adversely affects an individual's educational performance. "Vision impaired" includes both having partial sight and blindness.

B. There is hereby established the Board of Visitors of the Virginia School for the Deaf and the Blind (Board of Visitors), as a policy agency in the executive branch of state government under the name of the "Virginia School for the Deaf and the Blind," for the purpose of governing the educational programs and services to deaf, blind, and multi-disabled students enrolled at the Virginia School for the Deaf and the Blind.

C. The Board of Visitors shall have a total membership of 15 members that shall consist of four legislative members and 11 nonlegislative citizen members. Members shall be appointed as follows: two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate, to be appointed by the Senate Committee on Rules; and 11 nonlegislative citizen members, of

90 whom two shall be parents of current students at the Virginia School for the Deaf and the Blind, of whom (i)
91 one shall be the parent of a student who is deaf or hard of hearing and one shall be the parent of a student
92 who is vision impaired and (ii) one shall represent the Eastern region of the Commonwealth and one shall
93 represent the Western region of the Commonwealth, two shall be representatives of the Virginia School for
94 the Deaf and the Blind Alumni Association who are deaf or hard of hearing, and two shall be representatives
95 of the Virginia School for the Deaf and the Blind Alumni Association who are vision impaired, to be
96 appointed by the Governor, subject to confirmation by the General Assembly. Nonlegislative citizen
97 members of the Board of Visitors shall be citizens of the Commonwealth. Legislative members of the Board
98 of Visitors shall serve terms coincident with their terms of office. After the initial staggering of terms,
99 nonlegislative members appointed shall serve for four-year terms. Appointments to fill vacancies, other than
100 by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the
101 original appointments. All members may be reappointed. However, no House member shall serve more than
102 four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms,
103 and no nonlegislative member appointed by the Governor shall serve more than two consecutive four-year
104 terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term
105 in determining the member's eligibility for reappointment.

106 The Board of Visitors shall elect a chairman and vice-chairman from among its membership. The Board
107 of Visitors shall elect a secretary, who shall keep an accurate record of the proceedings of the Board of
108 Visitors and of the executive committee if one is created by the Board of Visitors, and such other officers as
109 the Board deems appropriate. A majority of the members shall constitute a quorum. The Board of Visitors
110 shall meet no less than four times each year. The meetings of the Board of Visitors shall be held at the call of
111 the chairman or whenever the majority of the members so request. Notice of all meetings shall be made in
112 accordance with the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Notice of
113 meetings to the public shall, pursuant to subsection G of § 2.2-3707, state whether public comment will be
114 received at the meeting and, if so, the approximate point during the meeting when public comment will be
115 received. At any meeting at which public comment will be received, each speaker shall be allotted three
116 minutes to speak. To ensure that all interested parties are given reasonable opportunity to be heard, the time
117 allotted for each speaker to give public comment shall not be limited extemporaneously or without adequate
118 notice prior to the date on which such meeting is scheduled.

119 D. Legislative members of the Board of Visitors shall receive such compensation as provided in

§ 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided from such funds as may be appropriated to the Board of Visitors, in accordance with the appropriations act.

E. The Superintendent shall designate a member of the staff of the Department to serve as a consultant to the Board of Visitors on matters pertaining to instruction, federal and state special education requirements, and school accreditation; and to provide technical assistance to assist the Board of Visitors in meeting specific instructional and school accreditation needs.

F. The Board of Visitors shall have the following powers and duties:

1. ~~Establish~~ *Provide oversight to the Virginia School for the Deaf and the Blind Executive Cabinet, which shall be made up of the superintendent, the assistant superintendent, the director of finance, and the director of human resources, in exercising the following powers and duties:*

a. *Establishing* such rules, policies, and regulations for the governance of the Virginia School for the Deaf and the Blind;

~~2. Prescribe;~~

b. *Prescribing* the criteria and procedures governing admissions to the school, and the review of student placement, to ensure the appropriateness of the placement and instructional program of each student admitted to the school, pursuant to § 22.1-348 and in accordance with federal and state special education laws and regulations;

~~3. Establish;~~

c. *Establishing* a policy governing the transportation of students at the school to permit frequent home visits by students, and to provide to each student transportation to and from the school and the place of residence of such student's parent or guardian whenever the school is officially closed;

~~4. Prescribe;~~

d. *Prescribing and approve approving* the education programs of the Virginia School for the Deaf and the Blind, in consultation with the Department, the Department for the Deaf and Hard-of-Hearing, and the Department for the Blind and Vision Impaired;

e. *Establishing the qualifications, duties, and compensation of the superintendent, other officers, and faculty of the school;*

f. *Managing and supervising the faculty, who shall be exempt from the provisions of the Virginia*

151 *Personnel Act (§ 2.2-2900 et seq.), and establishing policies outlining the provision of retirement and other*
152 *state benefits to the faculty and any other employees who are exempt from the provisions of the Virginia*
153 *Personnel Act (§ 2.2-2900 et seq.); and*

154 *g. Establishing salary schedules for all professional personnel pursuant to § 22.1-349.*

155 ~~5. 2. Appoint and supervise the superintendent; and other officers; and the faculty of the school, who shall~~
156 *be exempt from the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.). The superintendent shall be*
157 *appointed every two years and the other officers and faculty annually. However, the superintendent; or his*
158 *designee (i) shall be authorized to ensure continuity of operations, including hiring and separation for all*
159 *other positions, and (ii) with the approval of the chairman of the Board of Visitors, shall be authorized to fill*
160 *vacancies in positions appointed by the Board of Visitors occurring between meetings of the Board of*
161 *Visitors. The Board of Visitors may remove at any time the superintendent; and other officers for cause, and*
162 *may remove at any time faculty; and employees subject to the Virginia Personnel Act (§ 2.2-2900 et seq.) for*
163 *cause; subject to the provisions of Chapter 29 the Virginia Personnel Act (§ 2.2-2900 et seq.) of Title 2.2.*

164 ~~6. Establish the qualifications, duties, and compensation of the superintendent; other officers; faculty; and~~
165 ~~employees of the school.~~

166 ~~7. 3. Prepare and submit to the Governor and the General Assembly an annual report detailing the~~
167 *curricula and other educational programs and services of the school, including receipts and disbursements*
168 *pertaining to the operation of the school for each fiscal year ending on June 30.*

169 *G. The Board of Visitors is hereby authorized to establish and maintain a campus security department and*
170 *to employ campus security personnel therein.*

171 *H. The Board of Visitors may establish, in compliance with the provisions of Article 3 (§ 23.1-809 et seq.)*
172 *of Chapter 8 of Title 23.1, a campus police department and employ campus police officers upon appointment*
173 *as provided in § 23.1-812.*

174 **§ 22.1-349. Terms of employment of teachers.**

175 ~~For the purpose of Pursuant to subdivision F 1 f of § 22.1-346.2, the Board of Visitors shall provide~~
176 *oversight to the Virginia School for the Deaf and the Blind Executive Cabinet in establishing policies*
177 *outlining the provision of retirement and other statutory state benefits; teachers employed as full-time*
178 *instructional personnel by the Board of Visitors shall be deemed to be full-time state personnel and shall*
179 *receive the same benefits as are accorded all other full-time state personnel for faculty and other employees*
180 *who are exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.). The Board of Visitors shall require the*
181 *teachers at the Virginia School for the Deaf and the Blind to comply with the provisions of §§ 22.1-298.1,*

22.1-299, and 22.1-303. The Board of Visitors shall require any applicant for employment as full-time instructional personnel or other position requiring as a condition of employment direct contact with students to submit to a fingerprinting and criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation, in accordance with the provisions of §§ 22.1-296 and 22.1-296.1. The Board of Visitors shall be deemed a governmental entity for the purpose of receiving from the Central Criminal Records Exchange any criminal history record information pertaining to an application for employment. Contracts for the employment of teachers shall be in the form prescribed by the ~~school board of the school division in which the school is located~~ Board of Visitors. In cases of nonrenewal of contracts of probationary teachers *and teachers with continuing contracts*, the decisions shall be appealable to the Board of Visitors: ~~For all other purposes, the Virginia Personnel Act (§ 2.2-2900 et seq.) shall apply to the teachers of the Virginia School for the Deaf and the Blind in accordance with the policies of the Board of Visitors.~~

The Board of Visitors shall ~~establish~~ *provide oversight the establishment of* salary schedules for all professional personnel that are competitive with those in effect for the school divisions in which the facility is located *as well as other schools for the deaf and the blind nationally, by the Virginia School for the Deaf and the Blind Executive Cabinet in accordance with subdivision F 1 g of § 22.1-346.2.*

§ 23.1-812. Appointment of campus police officers and members of an auxiliary police force.

A. Prior to appointment as a campus police officer or member of an auxiliary police force, each individual shall be investigated by the campus police department of the institution applying for the order of appointment or, if none has been established, by the police department of the locality in which such institution is located. Such investigation shall determine whether the individual is responsible, honest, and in all ways capable of performing the duties of a campus police officer.

B. Upon application of the governing board of a public institution of higher education or private institution of higher education, the circuit court of the locality in which the institution is located may, by order, appoint the individuals named in the application to be campus police officers or members of an auxiliary police force at such institution.

C. Each campus police officer and member of an auxiliary police force appointed and employed pursuant to this article is a state employee of the institution named in the order of appointment. Insofar as it is not inconsistent with the Virginia Personnel Act (§ 2.2-2900 et seq.), the governing board of such institution shall provide for the conditions and terms of employment and compensation and a distinctive uniform and badge of office for such officers and members of an auxiliary police force.

213 *D. Nothing in this article shall abridge the authority of the Board of Visitors of the Virginia School for the*
214 *Deaf and the Blind to establish and maintain a campus police department and to employ campus police*
215 *personnel therein in accordance with the provisions of subsection H of § 22.1-346.2.*