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HOUSE BILL NO. 1385
AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the House Committee on Education
 on _____)

(Patrons Prior to Substitute—Delegates Franklin, L.V. [HB 939], Callsen [HB 780], and Laufer [HB 1069])
 A BILL to amend and reenact §§ 2.2-105, 2.2-108, 2.2-2519, 23.1-100, 23.1-1006, 23.1-1300, 23.1-1304, and 23.1-2601 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-1303.1, relating to gubernatorial appointments; confirmation process; Virginia Commission on Higher Education Board Appointments; membership, duties, and committees of and legal counsel for governing boards of public institutions of higher education.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-105, 2.2-108, 2.2-2519, 23.1-100, 23.1-1006, 23.1-1300, 23.1-1304, and 23.1-2601 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 23.1-1303.1 as follows:

§ 2.2-105. Appointments to office; effect of refusal to confirm by the General Assembly.

No person appointed to any office by the Governor, whose appointment is subject to confirmation by the General Assembly, shall enter upon, or continue in, office after the General Assembly has refused to confirm his appointment. Nor shall such person be eligible for reappointment during the recess of the General Assembly to fill the vacancy caused by the refusal to confirm. *Whenever the House or Senate Committee on Privileges and Elections or a subcommittee thereof, or other standing committee made responsible for confirming gubernatorial appointments by the rules of the applicable house, votes to reject an appointment by the Governor by a majority vote in accordance with the rules of its house, such rejection shall be deemed a refusal of the General Assembly to confirm such appointment for purposes of Article V, Section 11 of the Constitution of Virginia and this section.*

§ 2.2-108. Removal of members of certain boards, commissions, etc.

A. Notwithstanding any provision of law to the contrary, the Governor may remove from office for malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor any member of any board, commission, council or other collegial body established by the General Assembly in the executive branch of state government except those boards provided for in subsection *D* of § 23.1-1300, subsection A of § 23.1-3100, and subsection A of § 23.1-3200 and fill the vacancy resulting from the removal subject to confirmation by the General Assembly.

B. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to this section at the time the removal occurs. The Governor is the sole judge of the sufficiency of the cause for removal as set forth in this section.

§ 2.2-2519. Membership; quorum.

The Commission shall ~~have a total membership~~ consist of ~~eight~~ at least six but no more than 15 nonlegislative citizen members ~~that shall consist of six nonlegislative citizen members~~ and two ex officio members. Nonlegislative citizen members shall be appointed by the Governor as follows: ~~two who shall be former members of either~~ at least one former member of the board of visitors of a public institution of higher education ~~or; at least one former member of the State Board for Community Colleges; at least one who shall be either~~ a former president, provost, or executive vice-president of a public institution of higher education; ~~at least one who shall be~~ a faculty member of a public institution of higher education; and ~~at least two who shall be~~ citizens at large. The Secretary of Education or his designee and the Secretary of the Commonwealth or his designee shall serve as ex officio members of the Commission with nonvoting privileges. The nonlegislative citizen member appointed who is a faculty member of a public institution of higher education shall serve without voting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth. ~~Three~~ A majority of the voting members of the Commission shall constitute a quorum.

Nonlegislative citizen members shall serve at the pleasure of the Governor, and ex officio members of the Commission shall serve terms coincident with their terms of office.

§ 23.1-100. Definitions.

As used in this title, unless the context requires a different meaning:

"Associate-degree-granting" means that an associate degree is the most advanced degree that is granted.

"Associate-degree-granting public institution of higher education" includes Richard Bland College and each comprehensive community college.

"Baccalaureate" means that bachelor's degrees or more advanced degrees, or both, are granted.

"Baccalaureate public institution of higher education" includes Christopher Newport University, George Mason University, James Madison University, Longwood University, the University of Mary Washington,

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60 Norfolk State University, Old Dominion University, Radford University, the University of Virginia, the
 61 University of Virginia's College at Wise as a division of the University of Virginia, Virginia Commonwealth
 62 University, Virginia Military Institute, Virginia Polytechnic Institute and State University, Virginia State
 63 University, and The College of William and Mary in Virginia.

64 "Chief executive officer" includes the Chancellor of the Virginia Community College System, the
 65 Chancellor of the University of Virginia's College at Wise, the Superintendent of Virginia Military Institute,
 66 and the president of each other public institution of higher education.

67 "Comprehensive community college" means an associate-degree-granting public institution of higher
 68 education governed by the State Board that offers instruction in one or more of the following fields:

69 1. Freshman and sophomore courses in arts and sciences acceptable for transfer to baccalaureate degree
 70 programs;

71 2. Diversified technical curricula, including programs leading to an associate degree;

72 3. Career and technical education leading directly to employment;

73 4. Courses in general and continuing education for adults in the fields set out in subdivisions 1, 2, and 3;

74 or

75 5. Noncredit training and retraining courses and programs of varying lengths to meet the needs of business
 76 and industry in the Commonwealth.

77 "Council" means the State Council of Higher Education for Virginia.

78 "Dual enrollment" means the enrollment of a qualified high school student in a postsecondary course that
 79 is creditable toward high school completion and a career certificate or an associate or baccalaureate degree at
 80 a public institution of higher education. "Dual enrollment" does not include the enrollment of a qualified high
 81 school student in a postsecondary course that is not creditable toward high school completion.

82 "Governing board" includes the State Board and the board of visitors of each baccalaureate public
 83 institution of higher education. "Governing board" does not include local community college boards.

84 "Local community college board" means the board established to act in an advisory capacity to the State
 85 Board and perform such duties with respect to the operation of a single comprehensive community college as
 86 may be delegated to it by the State Board.

87 "Nonprofit private institution of higher education" means any postsecondary school, as that term is
 88 defined in § 23.1-213, in the Commonwealth that is exempt from paying federal income taxes under §
 89 501(c)(3) of the Internal Revenue Code and is certified by the Council to offer degrees or exempt from such
 90 certification pursuant to Article 3 (§ 23.1-213 et seq.) of Chapter 2.

91 "Non-Virginia student" means any student who has not established domicile in the Commonwealth
 92 pursuant to § 23.1-502.

93 "*Partisan objective*" means any objective or goal directly relating to (i) an ideology or platform of a
 94 political party, political candidate, or individual elected to a partisan public office, as that term is defined in
 95 § 30-391; (ii) a political party; (iii) a political candidate or political campaign; or (iv) an individual holding
 96 an elective partisan public office.

97 "*Political candidate*" means any person who has made known an intention to seek or campaign for local
 98 or state office in a general, primary, or special election.

99 "*Political party*" means any party, organization, or group having as its purpose the promotion of political
 100 candidates or political campaigns.

101 "Private institution of higher education" includes each nonprofit private institution of higher education
 102 and proprietary private institution of higher education in the Commonwealth.

103 "Proprietary private institution of higher education" means any postsecondary school, as that term is
 104 defined in § 23.1-213, in the Commonwealth that is privately owned, privately managed, and obligated to pay
 105 federal income taxes in the Commonwealth and is certified by the Council to offer degrees or exempt from
 106 such certification pursuant to Article 3 (§ 23.1-213 et seq.) of Chapter 2.

107 "Public institution of higher education" includes the System as a whole and each associate-degree-
 108 granting and baccalaureate public institution of higher education in the Commonwealth.

109 "State Board" means the State Board for Community Colleges.

110 "System" means the Virginia Community College System.

111 "Virginia student" means any student who has established domicile in the Commonwealth pursuant to
 112 § 23.1-502.

113 **§ 23.1-1006. Management agreement; contents and scope.**

114 A. Each covered institution that complies with the requirements of this article shall have the powers set
 115 forth in this article that are expressly included in the management agreement.

116 B. Each management agreement shall include:

117 1. A copy of the governing board's resolution in support of a request for restructured operational authority;

118 2. The institution's express agreement to reimburse the Commonwealth for any additional costs that the
 119 Commonwealth incurs to provide health or other group insurance benefits to employees and undertake any
 120 risk management program that are attributable to the institution's exercise of restructured operational
 121 authority;

122 3. The institution's undergraduate Virginia student enrollment, financial aid requirements and capabilities,
123 and tuition policy for undergraduate Virginia students; and

124 4. A statement of the Governor's power to void the management agreement pursuant to subsection E of
125 § 23.1-1007.

126 C. There is a presumption that restructured operational authority is not included in the management
127 agreement, and such authority shall only be granted to a covered institution if it is expressly included in the
128 management agreement. The only implied authority that is granted to a covered institution is that which is
129 necessary to carry out the express grant of restructured operational authority. Each covered institution shall
130 be governed and administered in the manner provided in (i) this article but subject to the expressed terms of
131 the management agreement, (ii) the general appropriation act, and (iii) the institution's enabling statutes.

132 D. Except as specifically made inapplicable under this article or the express terms of a management
133 agreement, the provisions of Title 2.2 relating generally to the operation, management, supervision,
134 regulation, and control of public institutions of higher education are applicable to covered institutions as
135 provided by the express terms of the management agreement.

136 E. In the event of a conflict between any provision of Title 2.2 and any provision of the management
137 agreement, the provisions of the management agreement control. In the event of a conflict between any
138 provision of this article and an institution's enabling statutes, the enabling statutes control.

139 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) that are
140 applicable to officers and employees of a state governmental agency shall continue to apply to the members
141 of the governing board and the covered employees of a covered institution.

142 G. A covered institution, its officers, directors, employees, and agents, and the members of its governing
143 board are entitled to the same sovereign immunity to which they would be entitled if the institution were not
144 governed by this article.

145 H. The Virginia Tort Claims Act (§ 8.01-195.1 et seq.) and its limitations on recoveries remain applicable
146 to covered institutions.

147 I. A management agreement with a public institution of higher education shall not grant restructured
148 operational authority to the Virginia Cooperative Extension Service and Agricultural Experiment Station
149 Division, the University of Virginia's College at Wise, the Virginia Institute of Marine Science, or an
150 affiliated entity of the institution unless the intent to grant such authority and the degree to which such
151 authority is granted is expressly included in the management agreement.

152 J. For purposes of §§ 23.1-101, 23.1-102, 23.1-103, 23.1-104, and 23.1-107, Chapter 2 (§ 23.1-200 et
153 seq.), §§ 23.1-306, 23.1-402, 23.1-403, and 23.1-404, Chapter 5 (§ 23.1-500 et seq.), Chapter 6 (§ 23.1-600 et
154 seq.), Chapter 7 (§ 23.1-700 et seq.), §§ 23.1-800, 23.1-801, 23.1-901, and 23.1-1001, Chapter 11
155 (§ 23.1-1100 et seq.), Chapter 12 (§ 23.1-1200 et seq.), subsections ~~G~~ H, ~~H~~ I, and ~~I~~ J of § 23.1-1300,
156 § 23.1-1302, and subdivision B of § 23.1-1303, each covered institution shall remain a public institution of
157 higher education following its conversion to a covered institution governed by this article and shall retain the
158 authority granted and any obligations required by such provisions.

159 K. State government-owned or operated and state-owned teaching hospitals that are a part of a covered
160 institution as of the effective date of the covered institution's initial management agreement shall continue to
161 be characterized as state government-owned or operated and state-owned teaching hospitals for purposes of
162 payments under the state plan for medical assistance services adopted pursuant to § 32.1-325, provided that
163 the covered institution commits to serve indigent and medically indigent patients. If such covered institution
164 commits to serve indigent and medically indigent patients, the Commonwealth, through the Department of
165 Medical Assistance Services, shall, subject to the appropriation in the current general appropriation act,
166 continue to reimburse the full cost of the provision of care, treatment, health-related services, and educational
167 services to indigent and medically indigent patients and continue to treat hospitals that were part of a covered
168 institution and that were Type One Hospitals prior to the effective date of the covered institution's initial
169 management agreement as Type One Hospitals for purposes of such reimbursement.

170 L. Consistent with the terms of the management agreement, the governing board of each covered
171 institution shall assume full responsibility for management of the institution, subject to the requirements and
172 conditions set forth in this article and the management agreement, and shall be fully accountable for meeting
173 the requirements of §§ 23.1-206, 23.1-306, and 23.1-310 and such other provisions as may be set forth in the
174 management agreement.

175 **§ 23.1-1300. Members of governing boards; removal; terms; faculty, staff, and student members;**
176 **residency.**

177 A. Members appointed by the Governor to the governing boards of public institutions of higher education
178 shall serve for terms of four years. Vacancies occurring other than by expiration of a term shall be filled for
179 the unexpired term. No member appointed by the Governor to such a governing board shall serve for more
180 than two consecutive four-year terms; however, a member appointed by the Governor to serve an unexpired
181 term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.
182 ~~Except as otherwise provided in § 23.1-2601, all~~ All appointments are subject to confirmation by the General
183 Assembly and shall be made in accordance with the following requirements:

184 1. Members appointed by the Governor to the governing board of a public institution of higher education
 185 shall continue to hold office until their successors have been appointed and qualified. ~~Ex officio members~~
 186 ~~shall serve a term coincident with their term of office.~~ confirmed by the General Assembly; and

187 2. When a vacancy occurs by reason of the death, resignation, or removal of a member or by any reason
 188 other than by expiration of term at any point during which the General Assembly is not convened in a regular
 189 session:

190 a. The Governor shall, within 30 days of the death, resignation, or removal of the member or the
 191 occurrence of the vacancy, nominate another individual for appointment to the governing board of the
 192 applicable public institution of higher education;

193 b. If the nomination to fill such vacancy occurs at any point when the General Assembly is not in a
 194 regular or special session or otherwise fails to take action on such nomination within 30 days of receiving
 195 notice of any such nomination, the person so nominated shall be deemed eligible to take the oath of office and
 196 be counted toward the quorum, and his appointment shall be subject to confirmation by the General
 197 Assembly at its next regular session, upon which such individual shall be confirmed or rejected by the
 198 General Assembly in accordance with the provisions of subdivision 1; and

199 c. If the nomination to fill such vacancy occurs while the General Assembly is convened in a special
 200 session and operating under a procedural resolution for such, the Senate Committee on Privileges and
 201 Elections or the House Committee on Privileges and Elections shall meet within 30 days of the Governor
 202 making a nomination to fill a vacancy to take action on such nomination. If either committee or a
 203 subcommittee thereof fails to take any action on the appointment by the end of such 30-day period, the person
 204 so nominated shall be deemed eligible to take the oath of office and be counted toward the quorum, provided
 205 that his appointment shall be subject to confirmation by the General Assembly at its next regular session, at
 206 which time such individual shall be confirmed or rejected by the General Assembly. If either committee or a
 207 subcommittee thereof holds a provisional vote on such nominee and votes to reject such nomination by a
 208 majority vote of such body in accordance with the rules of its house before the end of such 30-day period,
 209 such rejection shall be deemed a refusal of the General Assembly to confirm such appointment pursuant to
 210 § 2.2-105. The Governor may, upon any such majority vote to reject a nomination to fill a vacancy, elect to
 211 nominate a new individual to fill such vacancy. Any new individual nominated by the Governor after
 212 withdrawal of a provisionally rejected nominee may also be provisionally rejected by a majority vote of the
 213 members on either committee in accordance with the provisions of this subdivision.

214 B. No member appointed by the Governor to the governing board of a public institution of higher
 215 education who has served two consecutive four-year terms on such board is eligible to serve on the same
 216 board until at least four years have passed since the end of his second consecutive four-year term.

217 C. Each member appointed by the Governor to the governing board of a public institution of higher
 218 education shall, as a part of his oath of office, certify that he shall comply with (i) the duties and principles of
 219 trusteeship set forth in applicable law, including the duties required pursuant to § 23.1-1303.1 and (ii) the
 220 conflict of interest standards developed by the Council.

221 D. Notwithstanding the provisions of subsection ~~E~~ F or any other provision of law, the Governor may
 222 remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the
 223 board of any public institution of higher education and fill the vacancy resulting from the removal.

224 ~~D~~. E. The Governor shall set forth in a written public statement his reasons for removing any member
 225 pursuant to subsection ~~E~~ D at the time the removal occurs. The Governor is the sole judge of the sufficiency
 226 of the cause for removal as set forth in subsection ~~E~~ D.

227 ~~E~~. F. If any member of the governing board of a public institution of higher education fails to attend (i)
 228 the meetings of the board for one year without sufficient cause, as determined by a majority vote of the board,
 229 or (ii) the educational programs required by § 23.1-1304 in his first two years of membership without
 230 sufficient cause, as determined by a majority vote of the board, the remaining members of the board shall
 231 record such failure in the minutes at its next meeting and notify the Governor, and the office of such member
 232 shall be vacated. No member of the board of visitors of a baccalaureate public institution of higher education
 233 or the State Board for Community Colleges who fails to attend the educational programs required by
 234 § 23.1-1304 during his first four-year term is eligible for reappointment to such board.

235 ~~F~~. G. The governing board of each public institution of higher education shall adopt in its bylaws policies
 236 (i) for removing members pursuant to subsection ~~E~~ F and (ii) referencing the Governor's power to remove
 237 members described in subsection ~~E~~ D.

238 ~~G~~. H. The governing board of each public institution of higher education and each local community
 239 college board may appoint one or more nonvoting, advisory faculty representatives to its respective board. In
 240 the case of local community college boards and boards of visitors, such representatives shall be chosen from
 241 individuals elected by the faculty or the institution's faculty senate or its equivalent. In the case of the State
 242 Board, such representatives shall be chosen from individuals elected by the Chancellor's Faculty Advisory
 243 Committee. Such representatives shall be appointed to serve (i) at least one term of at least 12 months, which
 244 shall be coterminous with the institution's fiscal year or (ii) for such terms as may be mutually agreed to by
 245 the State Board and the Chancellor's Faculty Advisory Committee, or by the local community college board

246 or the board of visitors, and the institution's faculty senate or its equivalent.

247 ~~H~~. I. The board of visitors of any baccalaureate public institution of higher education shall appoint one or
 248 more students as nonvoting, advisory representatives. Such representatives shall be appointed under such
 249 circumstances and serve for such terms as the board of visitors of the institution shall prescribe.

250 ~~F~~. J. Nothing in subsections ~~G~~ and ~~H~~ and ~~I~~ shall prohibit the governing board of any public institution of
 251 higher education or any local community college board from excluding such nonvoting, advisory faculty or
 252 student representatives from discussions of faculty grievances, faculty or staff disciplinary matters or salaries,
 253 or any other matter.

254 ~~F~~. K. The president or any one of the vice presidents of the board of visitors of Virginia Military Institute,
 255 the chairman or the vice-chairman of the State Board, and the rector or vice-rector of the governing board of
 256 each other public institution of higher education shall be a resident of the Commonwealth.

257 ~~K~~. L. No baccalaureate public institution of higher education shall employ an individual appointed by the
 258 Governor to the board of visitors of such institution within two years of the expiration of his term. Such
 259 prohibition shall not apply to the employment of an individual to serve as an institution president or, in the
 260 case of Virginia Military Institute, the Superintendent.

261 *M. Unless otherwise specially provided by law or unless the bylaws of the applicable governing board*
 262 *require more than a quorum for certain action, (i) the governing board of any baccalaureate public*
 263 *institution of higher education may exercise any of the powers conferred upon it pursuant to this subtitle at*
 264 *any meeting of the governing board, regular, special, or adjourned, at which a quorum is present and (ii) the*
 265 *executive committee of a governing board appointed pursuant to § 23.1-1306 may exercise any of the powers*
 266 *conferred upon it pursuant to this subtitle only at any meeting of the executive committee at which a quorum*
 267 *is present and that is convened during a recess of the full governing board subsequent to a meeting at which*
 268 *a quorum of the full governing board was present. The executive committee shall act at all times in*
 269 *accordance with the primary duties of the governing board as set forth in subsection A of § 23.1-1303.1*
 270 *during any such meeting. The full governing board shall be notified of all actions taken by the executive*
 271 *committee during any such meeting and shall determine whether to confirm or ratify each such action that*
 272 *requires confirmation or ratification at the next meeting of the full governing board.*

273 *N. A majority of the members of the governing board and a majority of the members of any executive*
 274 *committee described in subsection M shall constitute a quorum of the board or committee, respectively,*
 275 *except as otherwise provided pursuant to applicable law.*

276 **§ 23.1-1303.1. Governing boards; additional duties; primary duties; partnership and collaboration.**

277 *A. The governing board of each public institution of higher education shall act at all times in accordance*
 278 *with its primary duties of advancing the interests of the institution and the interests of the people of the*
 279 *Commonwealth.*

280 *B. In accordance with the primary duties set forth in subsection A, the governing board of each public*
 281 *institution of higher education shall:*

282 *1. Exercise in its collective capacity its best judgment in carrying out the powers and duties of the*
 283 *governing board;*

284 *2. Ensure that in making any decisions or policy relating to institutional governance and in carrying out*
 285 *any other powers and duties of the governing board, the mission of the institution is used as the guiding*
 286 *principle and any ideological, partisan, or personal aims that are inconsistent with that mission are rejected;*

287 *3. Commit to and ensure that all decisions of the governing board reflect the primary institutional*
 288 *objectives of:*

289 *a. The advancement of the long-term sustainability of the institution;*

290 *b. The promotion of public trust in the institution; and*

291 *c. The advancement of the public good through providing higher education to the residents of the*
 292 *Commonwealth and others, supporting and advancing knowledge, research, innovation, and academic*
 293 *pursuits in the Commonwealth, and supporting the development of an educated, responsible citizenry capable*
 294 *of contributing to the progress of society;*

295 *4. Not make any decision or exercise any of the powers and duties of the governing board (i) for the*
 296 *purpose of advancing or promoting a partisan objective or (ii) primarily in accordance with or primarily*
 297 *motivated by loyalty to a political party, political candidate, or individual holding elective partisan public*
 298 *office, in violation of the primary duties set forth in subsection A; and*

299 *5. Collaborate with institutional leadership and administration in a manner that facilitates mutual respect*
 300 *and emphasizes shared purpose in advancing institutional goals and promoting the mission and long-term*
 301 *success of the institution.*

302 *C. In accordance with the primary duties set forth in subsection A, each member of the governing board*
 303 *of each public institution of higher education, in his individual capacity, shall:*

304 *1. Ensure that, for the duration of his term, such individual is equipped to engage in high-level policy,*
 305 *planning, and oversight, including by (i) staying informed of such institution's developments and such other*
 306 *matters relevant to making educated decisions on institutional policy, planning, and oversight, and (ii)*
 307 *participating in the educational programs developed pursuant to § 23.1-1304;*

308 2. Exercise his own individual best judgement in carrying out the powers and duties of the governing
309 board;

310 3. Ensure that, in serving as a member of the governing board, he (i) acts as a part of a collective body
311 and not as an individual actor with separate ideological, personal, or partisan objectives and (ii)
312 collaborates with other members of the governing board as a strategic partner in advancing the mission of
313 the institution and the primary institutional objectives set forth in subdivision B 3;

314 4. Encourage open discussion and respectful disagreement in discussions of the governing board but
315 commit to publicly supporting and encouraging unified commitment to final decisions of the governing
316 board; and

317 5. Not use his individual role to:

318 a. Advance or promote any ideological, personal, or partisan objective;

319 b. Influence or attempt to influence or hinder or attempt to hinder any decision, policy, or position of the
320 governing board, institutional leadership, or any other entity for the primary purpose of advancing or
321 promoting any partisan objective; or

322 c. Act or make a decision primarily in accordance with or primarily motivated by loyalty to a political
323 party, political candidate, or individual holding elective partisan public office, in violation of the primary
324 duties set forth in subsection A.

325 D. Nothing in this section shall be construed to prohibit or preclude any action or decision of any member
326 of the governing board that incidentally or unintentionally impacts or has the effect of advancing or
327 promoting any partisan objective.

328 **§ 23.1-1304. Governing boards; additional duties; educational programs.**

329 A. From such funds as are appropriated for such purpose, the Council shall develop, in consultation with
330 public institutions of higher education and members of their governing boards, and annually deliver
331 educational programs for the governing boards of such institutions. New members of such governing boards
332 shall participate, at least once during their first two years of membership, in the programs, which shall be
333 designed to address the role, duties, and responsibilities of the governing boards and may include in-service
334 programs on current issues in higher education. In developing such programs, the Council may consider
335 similar educational programs for institutional governing boards in other states. In addition, the Council shall
336 develop educational materials for board members with more than two years of service on the governing
337 board. Each such board member shall participate in further training on board governance at least once every
338 two years, and the Council shall develop criteria by which such board members shall demonstrate compliance
339 with this requirement.

340 B. Educational programs for the governing boards of public institutions of higher education shall include
341 presentations relating to:

342 1. Board members' ~~primary duty to the citizens of the Commonwealth~~ duties in accordance with
343 subsection B of § 23.1-1303 and subsections B and C of § 23.1-1303.1, which shall include training and
344 information on:

345 a. The duty of each governing board to ensure that no decision or action of the governing board is (i)
346 made primarily for the purpose of advancing or promoting a partisan objective or (ii) motivated primarily by
347 loyalty to or the influence of any political party, political candidate, or individual holding elective partisan
348 public office;

349 b. The duty of each member of a governing board, in his individual capacity, not to use his individual role
350 to (i) advance or promote any ideological, personal, or partisan objectives; (ii) influence or attempt to
351 influence or hinder or attempt to hinder any decision or policy of the governing board or institutional
352 leadership for the primary purpose of advancing or promoting any partisan objective; or (iii) otherwise
353 prioritize or serve, in violation of the primary duties set forth in subsection A of § 23.1-1303.1, loyalty to any
354 political party, political candidate, or individual holding elective partisan public office; and

355 c. The exercise of independent judgment and avoiding, in the exercise of the powers and duties of
356 governing, improper influence by any partisan objective, political party, political campaign, or individual
357 holding elective partisan public office;

358 2. Governing board committee structure and function;

359 3. The duties of the executive committee set forth in § 23.1-1306;

360 4. Professional accounting and reporting standards;

361 5. Methods for meeting the statutory, regulatory, and fiduciary obligations of the board;

362 6. The requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), developed and
363 delivered in conjunction with the Freedom of Information Advisory Council;

364 7. Institutional ethics and conflicts of interest;

365 8. Creating and implementing regulations and institution policies;

366 9. Business operations, administration, budgeting, financing, financial reporting, and financial reserves,
367 including a segment on endowment management;

368 10. Fixing student tuition, mandatory fees, and other necessary charges, including a review of student debt
369 trends;

370 11. Overseeing planning, construction, maintenance, expansion, and renovation projects that affect the
371 institution's consolidated infrastructure, physical facilities, and natural environment, including its lands,
372 improvements, and capital equipment;

373 12. Workforce planning, strategy, and investment;

374 13. Institutional advancement, including philanthropic giving, fundraising initiatives, alumni
375 programming, communications and media, government and public relations, and community affairs;

376 14. Student welfare issues, including academic studies; curriculum; residence life; student governance and
377 activities; and the general physical and psychological well-being of undergraduate and graduate students;

378 15. Current national and state issues in higher education;

379 16. Future national and state issues in higher education;

380 17. Relations between the governing board and the chief executive officer of the institution, including
381 perspectives from chief executive officers of public institutions of higher education;

382 18. Best practices for board governance, including perspectives from current board members; and

383 19. Any other topics that the Council, public institutions of higher education, and members of their
384 governing boards deem necessary or appropriate.

385 C. The Council shall submit to the General Assembly and the Governor an annual executive summary of
386 the interim activity and work of the Council pursuant to this section no later than the first day of each regular
387 session of the General Assembly. The executive summary shall be submitted as provided in the procedures of
388 the Division of Legislative Automated Systems for the processing of legislative documents and reports and
389 shall be posted on the General Assembly's website.

390 **§ 23.1-2601. Membership.**

391 A. The board shall consist of 14 members, of whom 13 shall be appointed by the Governor and one shall
392 be the president of the Board of Agriculture and Consumer Services, who shall serve ex officio. Of the 13
393 members appointed by the Governor, at least 10 members shall be residents of the Commonwealth and at
394 least six members shall be alumni of the University. ~~All appointments by the Governor are subject to~~
395 ~~confirmation by the Senate.~~

396 B. The alumni association of the University may submit to the Governor a list of three nominees for each
397 vacancy on the board, whether it occurs by expired term or otherwise. The Governor may appoint a member
398 from the list of nominees.

399 **2. That the Office of the Attorney General shall convene a work group to examine the feasibility of**
400 **requiring the governing board of each public institution of higher education in the Commonwealth to**
401 **be responsible for all decisions relating to the employment of legal counsel for such institution. Such**
402 **work group shall reports its findings and recommendations to the Chairs of the House Committee on**
403 **Appropriations, the House Committee on Education, the Senate Committee on Education and Health,**
404 **and the Senate Committee on Finance and Appropriations no later than November 1, 2026.**