

TITLE ~~23~~ 23.1.

~~EDUCATIONAL~~ INSTITUTIONS OF HIGHER EDUCATION; OTHER EDUCATIONAL
AND CULTURAL INSTITUTIONS.

SUBTITLE I.

GENERAL PROVISIONS.

CHAPTER 1.

DEFINITIONS AND GENERAL PROVISIONS.

Drafting note: Proposed Chapter 1 contains separate articles for Definitions and General Provisions. Definitions of terms used throughout the title replace chapter-specific definitions or have been created for the sake of clarity.

Article 1.

Definitions.

Drafting note: Definitions of terms used throughout the title replace chapter-specific definitions or have been created for the sake of clarity.

§ 23.1-100. Definitions.

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

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

"Associate-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, University of Mary Washington, Norfolk State University, Old Dominion University, Radford University, University of Virginia, University of Virginia's College at Wise as a division of University of Virginia, Virginia Commonwealth University, Virginia Military Institute, Virginia

2401 Polytechnic and State University, Virginia State University, and the College of William and
2402 Mary in Virginia.

2403 "Comprehensive community college" means an associate-granting institution of higher
2404 education governed by the State Board that offers instruction in one or more of the following
2405 fields:

2406 1. Freshman and sophomore courses in arts and sciences acceptable for transfer to
2407 baccalaureate degree programs;

2408 2. Diversified technical curricula, including programs leading to the associate degree;

2409 3. Career and technical education leading directly to employment;

2410 4. Courses in general and continuing education for adults in the fields set out in
2411 subdivisions 1, 2, and 3; or

2412 5. Noncredit training and retraining courses and programs of varying lengths to meet the
2413 needs of business and industry in the Commonwealth.

2414 "Council" means the State Council of Higher Education for Virginia.

2415 "For-profit private institution of higher education" means any postsecondary school, as
2416 that term is defined in § 23.1-213, in the Commonwealth that is privately owned, privately
2417 managed, and obligated to pay federal income taxes in the Commonwealth and is certified by
2418 the Council to offer degrees or exempt from such certification pursuant to Article 3 (§ 23.1-213
2419 et seq.) of Chapter 2.

2420 "Governing board" includes the State Board and the board of visitors of each
2421 baccalaureate public institution of higher education. "Governing board" does not include local
2422 community college boards.

2423 "In-state student" means any student who has established domicile in the
2424 Commonwealth pursuant to § 23.1-5xx.

2425 "In-state tuition" means the tuition rate for which an in-state student is eligible at a
2426 public institution of higher education.

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

"Out-of-state student" means any student who has not established domicile in the Commonwealth pursuant to § 23.1-5xx.

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

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

"System" means the Virginia Community College System.

Drafting note: Definitions for "comprehensive community college," "State Board," and "System" are moved from existing Chapter 16. The remaining definitions are proposed for the sake of title-wide clarity.

Article 2.

General Provisions.

Drafting note: General provisions, including existing § 23-9.10:3 on contracts between private institutions of higher education and the Commonwealth or public institutions of higher education, are relocated to proposed Article 2.

~~§ 23-9.2 23.1-101. Public policy of Commonwealth in respect to endowment~~
Endowment funds of ~~state-supported public~~ institutions of higher education.

~~Whereas, the state-supported system of higher education can be greatly strengthened by increases in the endowment funds and unrestricted gifts of the several institutions of higher education derived from private sources; and~~

~~Whereas, prospective donors to the endowment funds and donors of unrestricted gifts of the several institutions hesitate to contribute thereto on the ground that, to the extent that the~~

2453 ~~income of the respective institutions is increased from private sources, the Commonwealth will~~
2454 ~~withdraw its support; and~~

2455 ~~Whereas, in § 10 of Chapter 33 of the Acts of Assembly of 1927, the General Assembly,~~
2456 ~~by setting endowment funds and income therefrom apart from other revenues of and~~
2457 ~~appropriations to the institutions of higher education, indicated an intention that endowments~~
2458 ~~and unrestricted gifts from private sources are to be in addition to such other revenues and~~
2459 ~~appropriations; now, therefore,~~

2460 ~~(1) A. It is hereby declared to be the public policy of the Commonwealth to encourage~~
2461 ~~the state-supported institutions that:~~

2462 ~~1. Each public institution of higher education in Virginia, the Frontier Culture Museum,~~
2463 ~~Gunston Hall, the Jamestown-Yorktown Foundation, the Science Museum of Virginia, and the~~
2464 ~~Virginia Museum of Fine Arts shall be encouraged in their attempts to increase their endowment~~
2465 ~~funds and unrestricted gifts from private sources- and reduce the hesitation of prospective~~
2466 ~~donors to make contributions and unrestricted gifts; and~~

2467 ~~(2) It is further declared to be the public policy of the Commonwealth that, in~~

2468 ~~2. Consistent with § 10 of Chapter 33 of the Acts of Assembly of 1927, in measuring the~~
2469 ~~extent to which the Commonwealth shall finance higher education in Virginia the~~
2470 ~~Commonwealth, the availability of the endowment funds and unrestricted gifts from private~~
2471 ~~sources of institutions of higher education received by such public institutions of higher~~
2472 ~~education, the Frontier Culture Museum, Gunston Hall, the Jamestown-Yorktown Foundation,~~
2473 ~~the Science Museum of Virginia, and the Virginia Museum of Fine Arts shall not neither be~~
2474 ~~taken into consideration in, nor used to reduce, state appropriations or payments, but such funds~~
2475 ~~and shall be used in accordance with the wishes of the donors thereof of such funds to~~
2476 ~~strengthen the services rendered by these institutions to the people of the Commonwealth.~~

2477 **Drafting note: Technical changes.**

2478 ~~§ 23-4 23.1-102. Register of state property Chief executive officer of each public~~
2479 ~~institution of higher education; duties.~~

The chief executive officer of ~~every state each public~~ institution of higher education shall ~~keep~~:

~~a book in which he shall cause to be registered~~ 1. Maintain a register that contains a description of all the property of the Commonwealth at ~~such the~~ institution, ~~with a correct description thereof~~, for the information of the board of visitors, and others interested. ~~Any officer failing to comply with this section shall forfeit fifty dollars.~~

~~§ 23-4.4. Authorization to transfer interest; Governor's approval required under certain circumstances.~~

~~A. The boards of visitors, the State Board for Community Colleges, or their designees are authorized to assign any interest they possess in intellectual property or in materials in which the institution claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual property policies adopted pursuant to subsection A of § 23-4.3. However, the Governor's prior written approval shall be required for transfers of such property developed wholly or predominately through the use of state general funds, exclusive of capital assets, and either (i) such property was developed by an employee of the institution acting within the scope of his assigned duties, or (ii) such property is to be transferred to an entity other than the Innovation and Entrepreneurship Investment Authority, an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations, colleges and universities, or an entity whose purpose is to benefit the respective institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials shall remain the property of the respective institutions and may be used and developed in any manner permitted by law.~~

~~B. The president of each state-supported institution of higher education, including the chancellor of the Virginia Community College System, shall, beginning with fiscal year 2016, include~~ 2. Include in its six-year plan adopted pursuant to ~~§ 23-38.87:17~~ 23.1-306 the following for the most recently ended fiscal year: (i) the assignment during the year of any intellectual property interests to a person or nongovernmental entity by the institution, any foundation

supporting the intellectual property research performed by the institution, or any entity affiliated with the institution; (ii) the value of externally sponsored research funds received during the year from a person or nongovernmental entity by the institution, any foundation supporting the intellectual property research performed by the institution, or any entity affiliated with the institution; and (iii) the number and types of patents awarded during the year to the institution, any foundation supporting the intellectual property research funded by the institution, or any entity affiliated with the institution that were developed in whole or part from externally sponsored research provided by a person or nongovernmental entity. The plan shall report separate aggregate data on (a) those persons or nongovernmental entities that have a principal place of business in Virginia as reflected in the assignment agreement or awarding documents and (b) those persons or nongovernmental entities that do not have a principal place of business in Virginia as reflected in the assignment agreement or awarding documents.

~~§ 23-1.1. Report of athletic receipts and disbursements.~~

~~It shall be the duty of the president or chairman of the board of visitors or trustees of every state institution of higher learning which maintains an intercollegiate athletic program to~~
~~cause~~ 3. For any institution that maintains an intercollegiate athletic program, cause to be made out by the proper officer of such institution; and forwarded to the Comptroller annually by December ~~thirty-first~~ 31 a detailed statement of all athletic receipts and disbursements of such institution and of any affiliated committee, group, corporation, or association charged with administering the athletic program. Such report shall include all receipts from admission tickets, programs, refreshment concessions, radio, television, newsreel or movie rights, and all other receipts related to any athletic contest or event. The report of disbursements shall include the name of each person, firm, or corporation to whom such disbursement was made and the amount ~~thereof of the disbursement~~. The report shall be kept on file by the Comptroller and shall be open to public inspection at all reasonable times.

Drafting note: Existing §§ 23-4 (as proposed subdivision 1) and 23-1.1 (as proposed subdivision 3) are combined in this proposed section concerning duties of the chief

executive officer of public institutions of higher education. Proposed subdivision 2 incorporates subsection B of existing § 23-4.4. The provision that any chief executive officer failing to keep a record of an institution's property for inspection by its governing board and the public is required to forfeit \$50 is recommended for repeal as being obsolete. The current language is ambiguous as to who has the primary responsibility for making such a report. Technical changes are made.

§ ~~23-3.1~~ 23.1-103. ~~Conveyance~~ Localities; conveyance of property and appropriation of funds to Commonwealth for certain educational purposes.

A. The governing body of any ~~county, city or town~~ locality may, subject to written advice from the Governor that the gift is acceptable, convey to the Commonwealth by deed of gift any land, ~~either heretofore or hereafter acquired, which, in the discretion of such governing body, that~~ is not required for the purposes of such ~~county, city, or town~~ locality, provided such land is to be used for the establishment, operation, or maintenance of a branch or division of a ~~state-supported college or university~~ public institution of higher education, the Jamestown-Yorktown Foundation, the Science Museum of Virginia, or the Virginia Museum of Fine Arts. For the purpose of acquiring such land the governing body of the locality may appropriate a portion of the general funds of ~~such county, city or town~~ the locality.

B. The governing body of any ~~county, city or town~~ locality may appropriate a portion of the locality's public funds ~~thereof~~ for capital outlays in connection with, ~~and~~ the operation or maintenance of, any ~~state-supported college or university~~ public institution of higher education or branch ~~thereof~~ or division of such institution, the Jamestown-Yorktown Foundation, the Science Museum of Virginia, or the Virginia Museum of Fine Arts.

Drafting note: Technical changes are made, including changing references to "counties, cities, and towns" to "localities" pursuant to § 1-221, which states that throughout the Code "locality" means a county, city, or town.

§ ~~23-4.2~~ 23.1-104. Disposition of ~~unclaimed~~ lost or abandoned property.

2560 A. The ~~board of visitors or other~~ governing ~~body of every state~~ board of each public
2561 institution of higher education and ~~every private accredited nonprofit~~ each accredited nonprofit
2562 private institution of higher education ~~in the Commonwealth~~ may provide by regulation ~~or~~
2563 institution policy for the care, restitution, sale, destruction, or disposal of unclaimed personal
2564 property, whether lost or abandoned, in the possession of the institution. Whenever procedures
2565 in accordance with such regulations or institution policies and this section are followed and
2566 ownership cannot be established with respect to certain property, neither the institution, ~~and the~~
2567 employees and agents thereof, shall have no liability nor any of its agents or employees is liable
2568 to any person claiming any interest in the property.

2569 A.B. In the case of tangible personal property, other than registered motor vehicles, ~~lost~~
2570 or abandoned at a public institution of higher education or accredited nonprofit private
2571 institution of higher education:

2572 1. The institution, upon receipt of ~~lost~~ such property, shall make reasonable efforts to
2573 give notice that the property has been found to any person that the institution determines to
2574 reasonably ~~appears~~ appear to be the owner. The institution shall hold such property ~~shall be held~~
2575 by the institution for a period of not less than for at least 120 days. The institution shall allow a
2576 claim upon satisfactory proof of it and payment of the institution's reasonable charges for
2577 storage or other services necessary to preserve the property.

2578 2. After the 120-day period, the institution may sell the property to the highest bidder at
2579 public auction or by sealed bid at whatever location that the institution reasonably determines
2580 affords to afford the most favorable market for the property. The institution may decline the
2581 highest bid and reoffer the property for sale if it considers the price bid insufficient. The net
2582 proceeds of any such sale ~~hereunder~~ shall be held for ~~a period of ninety~~ at least 90 days and if
2583 no claim is made ~~thereon~~ on the property within that time, such funds shall be credited to the
2584 institution's operating fund. If the institution determines that the probable cost of sale of
2585 property will exceed the sale proceeds, the property is inherently dangerous, or the property may
2586 not lawfully be sold or used, the institution may provide for any such property, as appropriate

under the circumstances, to be destroyed or discarded at an appropriate location, retained for use by the institution, or donated to an appropriate charitable organization.

3. Any sale ~~held hereunder pursuant to this subsection~~ shall be preceded by reasonable notice ~~thereof, considering of the sale, taking into consideration~~ the type and value of property. Such notice shall include ~~as a~~ at minimum the posting on a student bulletin board and publication in a school newspaper. The institution, by the same time, shall mail notice of the sale to the last known address of any person that the institution determines to reasonably ~~appears~~ appear to be the owner.

B.C. Whenever a motor vehicle is lost or abandoned on the campus of any public institution of higher education or accredited nonprofit private institution of higher education that ~~lies within a county, city, or town which is located in a locality that~~ has adopted an ordinance as provided in Chapter 12 of Title 46.2, such motor vehicle shall be disposed of as provided in that ordinance. Notwithstanding any provisions of Chapter 12 of Title 46.2, the proceeds of any sale of a motor vehicle lost or abandoned ~~and unclaimed~~ on institutional property shall be credited to the institution's operating fund after the ~~ninety-day~~ 90-day holding period. The ~~board of visitors or other governing body board~~ of an a public institution of higher education having that has a campus or part of a campus ~~lying~~ in a locality ~~which that~~ has not adopted such an ordinance, may promulgate ~~a regulation~~ regulations dealing with motor vehicles abandoned ~~within on~~ such campus or such part of the campus. Such regulations shall comply with all provisions of Chapter 12 of Title 46.2 and shall have the same legal effect as though the institution ~~were was~~ a political subdivision as defined in that chapter and the regulation was an ordinance. The proceeds from any sale resulting from such regulations shall be held for ~~a period of ninety at~~ least 90 days and if no claim to the motor vehicle is made ~~therefor~~ within that time, such funds shall be credited to the institution's operating fund.

C.D. Whenever any intangible personal property is believed to be lost or abandoned ~~or unclaimed~~ on the campus of a ~~state~~ public institution of higher education, it shall be administered as provided in Article 4 (§ 55-210.12 et seq.) of Chapter 11.1 of Title 55.

2614 ~~D.E.~~ Whenever any personal property, tangible or intangible, has been accepted for
2615 safekeeping during a patient's stay by any hospital operated by a ~~state~~ public institution of
2616 higher education, and ~~said such~~ property is believed by the appropriately designated official to
2617 be lost or abandoned ~~or unclaimed~~, it shall be administered as provided in Article 4 (§ 55-
2618 210.12 et seq.) of Chapter 11.1 of Title 55.

2619 **Drafting note: Subsection A incorporates a reference to institution policies because**
2620 **private institutions of higher education are not capable of promulgating regulations**
2621 **pursuant to the Administrative Process Act (§ 2.2-400 et seq.). Technical changes are**
2622 **made.**

2623 § ~~23-9.10:3~~ 23.1-105. ~~Authorization for Commonwealth or any political subdivision~~
2624 ~~thereof to contract to furnish or to obtain educational or other related services to or from~~
2625 Contracts with certain nonprofit private institutions of higher education.

2626 A. For the purposes of this section:

2627 ~~1.~~ "Private college" means a nonprofit private, ~~nonprofit~~ institution of higher education
2628 ~~in the Commonwealth approved to confer degrees pursuant to Chapter 21.1 (§ 23-276.1 et seq.)~~
2629 ~~of this title~~ whose primary purpose is to provide collegiate or graduate education and not to
2630 provide religious training or theological education.

2631 ~~2. "Public college" means any of the institutions of higher education listed in § 23-9.5.~~

2632 ~~3. "Services", "Services"~~ includes ~~but is not limited to~~ a program or course of study
2633 offered, or approved ~~for offer, to be offered~~ by a public institution of higher education or private
2634 college ~~or by a public college~~; use of professional personnel; use of any real or personal
2635 property owned, controlled, or leased for educational or ~~educationally~~ related purposes by ~~such~~
2636 ~~private and public colleges~~ a public institution of higher education or private college; ~~a~~ study,
2637 research, or investigation or ~~the like~~ similar activity by employees or students, or both, of ~~such~~
2638 ~~colleges~~ a public institution of higher education or private college; or any other activity (i)
2639 dealing with scientific, technological, humanistic, or other educational or related subjects, or (ii)
2640 providing public service or student service activities.

2641 B. The Commonwealth ~~and or~~ any of its political subdivisions may contract to obtain
2642 from or furnish to private colleges educational or related services ~~from or to private colleges~~.

2643 ~~1. No~~ C. Except as otherwise provided in Chapter 10 (§ 23.1-1000 et seq.), no contract
2644 for services between private colleges ~~on the one hand~~ and public ~~colleges~~ institutions of higher
2645 education or educational agencies of the Commonwealth, including ~~but not limited to~~ the ~~State~~
2646 Board of Education, ~~on the other~~, shall be valid unless approved by the ~~State~~ Council ~~of Higher~~
2647 Education.

2648 ~~2. D.~~ D. Except as provided in ~~paragraph B 1 subsection C~~, contracts for services between
2649 private colleges ~~on the one hand~~ and the Commonwealth or any of its political subdivisions ~~on~~
2650 ~~the other~~ may be entered into in any ~~circumstances where~~ circumstance in which the
2651 Commonwealth or its political subdivisions would, by virtue of law, have authority to contract
2652 with private contractors for educational or related services and ~~with~~ public institutions of higher
2653 education ~~in Virginia. C. When contracts covered by paragraph B 2 of this section are made by~~
2654 ~~private colleges, such~~ Private colleges shall report ~~the such~~ contracts to the ~~State~~ Council ~~of~~
2655 Higher Education for information.

2656 ~~D. E.~~ E. The ~~State~~ Council shall provide continuing evaluation of the effectiveness of ~~such~~
2657 and make recommendations regarding contracts, ~~whether~~ made ~~under paragraph B 1 or B 2 of~~
2658 ~~this section, and shall make recommendations regarding such contracts pursuant to this section~~.

2659 ~~E. F.~~ F. The authority to contract for educational or related services shall include the
2660 authority to accept gifts, donations, ~~and or~~ matching funds to facilitate or advance programs.

2661 ~~F. G.~~ G. Unless an ~~appropriations~~ appropriation act specifically provides otherwise, all
2662 appropriations shall be construed to authorize contracts with private colleges for the provision of
2663 educational or related services ~~which that~~ may be the subject of or included in the appropriation.

2664 H. Nothing in this ~~chapter~~ section shall be construed to restrict or prohibit the use of any
2665 federal, state, or local funds made available under any federal, state, or local appropriation or
2666 grant.

2667 **Drafting note: Technical changes are made, including the incorporation of title-**
2668 **wide definitions.**

2669 § ~~23-4.2-1~~ 23.1-106. Formation of not-for-profit benefits consortium.

2670 A. As used in this section:

2671 "Benefits consortium" means a nonstock corporation formed pursuant to subsection B.

2672 "Benefits plan" means plans adopted by the board of directors of a benefits consortium
2673 to provide health and welfare benefits to employees of private educational institutions that are
2674 members of the benefits consortium, employees of the sponsoring association of the benefits
2675 consortium, employees of the benefits consortium, and their dependents.

2676 "Employee welfare benefit plan" has the meaning set forth in § 3(1) of the Employee
2677 Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1).

2678 "Private educational institution" means a ~~nonpublic~~, nonprofit ~~college or university~~
2679 private institution of higher education that is accredited by a nationally recognized regional
2680 accreditation body or by the Board of Governors of the American Bar Association; and

2681 1. Has its primary campus located within the Commonwealth;
2682 2. Is owned and operated by a corporation, trust, association, or religious institution or
2683 any subsidiary or affiliate of any such entity;

2684 3. Has been in existence as a private educational institution in the Commonwealth for at
2685 least 10 years;

2686 4. Is a member in good standing of the sponsoring association; and

2687 5. Otherwise qualifies as an institution of higher education as defined in § ~~23-276.1~~ 23.1-
2688 213.

2689 "Sponsoring association" means an association of private educational institutions that is
2690 incorporated under the laws of the Commonwealth, has been in existence for at least 20 years,
2691 and exists for purposes other than arranging for or providing health and welfare benefits to
2692 members.

2693 B. Notwithstanding any provision of law to the contrary, five or more private
2694 educational institutions may form a not-for-profit benefits consortium for the purpose of
2695 establishing a self-funded employee welfare benefit plan by acting as incorporators of a
2696 nonstock corporation pursuant to the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.). In
2697 addition to provisions required or permitted by the Virginia Nonstock Corporation Act, the
2698 organizational documents of the benefits consortium shall:

2699 1. Limit membership in the benefits consortium to private educational institutions, the
2700 sponsoring association of the benefits consortium, and the benefits consortium;

2701 2. Set forth the name and address of each of the initial members of the corporation;

2702 3. Set forth requirements for the admission of additional private educational institutions
2703 to the corporation and the procedure for admission of additional members;

2704 4. Require that each initial member of the corporation and each additional private
2705 educational institution admitted to membership agree to remain a member of the benefits
2706 consortium for a period of at least five years from the date the consortium begins operations or
2707 the date of its admission to membership, as the case may be;

2708 5. Provide that the number of directors of the corporation shall be equal to the number of
2709 members and include one person employed by each member and may provide for an additional
2710 director who shall be an employee of the sponsoring association; however, two individuals
2711 affiliated with the same member ~~may~~ shall not serve on the board of directors at the same time;

2712 6. Provide that the board of directors shall have exclusive fiscal control over and be
2713 responsible for the operation of the benefits plan and shall govern the benefits consortium in
2714 accordance with the fiduciary duties defined in the federal Employee Retirement Income
2715 Security Act of 1974;

2716 7. Vest in the board of directors the power to make and collect special assessments
2717 against members and, if any assessment is not timely paid, to enforce collection of same in the
2718 name of the corporation;

2719 8. State the purposes of the benefits consortium, including the types of risks to be shared
2720 by its members;

2721 9. Provide that each member shall be liable for its allocated share of the liabilities of the
2722 benefits consortium as determined by the board of directors;

2723 10. Require that the benefits consortium purchase and maintain (i) a bond that satisfies
2724 the requirements of the Employee Retirement Income Security Act of 1974, (ii) fiduciary
2725 liability insurance, and (iii) a policy or policies of excess insurance with a retention level
2726 determined in accordance with sound actuarial principles from an insurer licensed to transact the
2727 business of insurance in the Commonwealth;

2728 11. Require that the benefits consortium be audited annually by an independent certified
2729 public accountant engaged by the board of directors;

2730 12. Prohibit the payment of commissions or other remuneration to any person on account
2731 of the enrollment of persons in any benefit plan offered by the benefits consortium; and

2732 13. Not include in the name of the corporation the words "insurance," "insurer,"
2733 "underwriter," "mutual," or any other word or term or combination of words or terms that is
2734 uniquely descriptive of an insurance company or insurance business unless the context of the
2735 remaining words or terms clearly indicate that the corporation is not an insurance company and
2736 is not carrying on the business of insurance.

2737 C. ~~A. Each~~ benefits consortium shall establish and maintain reserves determined in
2738 accordance with sound actuarial principles. Capital may be maintained in the form of an
2739 irrevocable letter of credit issued to the benefits consortium by a state or national bank
2740 authorized to engage in the banking business in the Commonwealth.

2741 D. Except to the extent specifically provided in this section, ~~a each~~ benefits consortium
2742 organized under and operated in conformity with this section, ~~so long as it that~~ remains in good
2743 standing under the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and otherwise meets
2744 the requirements set forth in this section, shall be governed solely by and be subject only to the
2745 provisions of the Employee Retirement Income Security Act of 1974 as implemented by the

2746 United States Department of Labor, shall be exempt from all state taxation, and shall not
2747 otherwise be subject to the provisions of Title 38.2, including regulation as a multiple employer
2748 welfare arrangement.

2749 **Drafting note: Technical changes.**

2750 [§ 23.1-107. Private institutions of higher education; human research review committees.](#)

2751 [The human research review committee at each for-profit and nonprofit private institution](#)
2752 [of higher education that conducts human research as that term is defined in § 32.1-162.16 shall](#)
2753 [submit to the Governor, the General Assembly, and the president of the institution or his](#)
2754 [designee at least annually a report on the human research projects reviewed and approved by the](#)
2755 [committee and require the committee to report any significant deviations from approved](#)
2756 [proposals.](#)

2757 **Drafting note: The provisions of existing § 23-9.2:3.3 related to the human research**
2758 **review committee at private institutions of higher education are incorporated into**
2759 **proposed § 23.1-107. A substantive change is made to exclude the provisions of existing §**
2760 **23-9.2:3.3 requiring such institutions to promulgate regulations as such provisions are**
2761 **inconsistent with the Administrative Process Act (§ 2.2-4000 et seq.).**

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2773 § 2.2-108. Removal of members of certain boards, commissions, etc.

2774 A. ~~Notwithstanding any provision of law to the contrary, the Governor may remove from~~
2775 ~~office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the~~
2776 ~~board of any public institution of higher education or other educational institution in Virginia,~~
2777 ~~and fill the vacancy resulting from the removal. Each appointment to fill a vacancy shall be~~
2778 ~~subject to confirmation by the General Assembly.~~

2779 B. Notwithstanding any provision of law to the contrary, the Governor may remove from
2780 office for malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism,
2781 conflict of interests, failure to carry out the policies of the Commonwealth as established in the
2782 Constitution or by the General Assembly, or refusal to carry out a lawful directive of the
2783 Governor any member of any board, commission, council or other collegial body established by
2784 the General Assembly in the executive branch of state government except those boards provided
2785 for in subsection ~~A~~ C of § 23.1-1300, and fill the vacancy resulting from the removal subject to
2786 confirmation by the General Assembly.

2787 ~~C.~~ B. The Governor shall set forth in a written public statement his reasons for removing
2788 any member pursuant to this section at the time the removal occurs. The Governor shall be the
2789 sole judge of the sufficiency of the cause for removal as set forth in this section.

2790 **Drafting note: The provisions of subsection A of this section regarding the removal**
2791 **of board members from public institutions of higher education or other educational**
2792 **institutions are moved into proposed subsection C of § 23.1-1300 in Chapter 13.**