

CHAPTER ~~5~~ 28.

THE COLLEGE OF WILLIAM AND MARY ~~AND IN VIRGINIA~~; RICHARD BLAND COLLEGE.

**Drafting note: Existing Chapter 5 of Title 23 is logically reorganized as proposed Chapters 13 and 28 of Title 23.1. Existing provisions that apply generally to governing boards of public institutions of higher education are consolidated in proposed Chapter 13. Existing provisions relating to the incorporation, membership and meetings, and powers and duties of the governing board that are unique to The College of William and Mary in Virginia and Richard Bland College are retained in proposed Chapter 28.**

~~§ 23-39~~ 23.1-2800. Corporate name; name of the University.

A. The board of visitors of ~~the~~ The College of William and Mary in Virginia (the board) shall be a corporation under the name and style of "The College of William and Mary in Virginia-" and shall have, in addition to its other powers, (i) all the corporate powers given to corporations by the provisions of Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1 and (ii) all powers conferred by the ancient royal charter of The College of William and Mary in Virginia. The board shall at all times be under the control of the General Assembly.

B. The institution shall be known as The College of William and Mary in Virginia (the University).

**Drafting note: Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-40. Property transferred to College of William and Mary and owned by State.~~

~~All the real estate and personal property relating to the College of William and Mary in Virginia, in Williamsburg, or relating to the Richard Bland College in Petersburg now existing and standing in the name of the corporate body designated "The Colleges of William and Mary" and all real estate and personal property standing in the name of or heretofore exclusively used by the Virginia Institute of Marine Science shall be transferred to and be known and taken as~~

2299 ~~standing in the name, and to be under the control of the corporate body designated "The College~~  
2300 ~~of William and Mary in Virginia." Such real estate and personal property shall be the property~~  
2301 ~~of the Commonwealth.~~

2302 **Drafting note: The provisions of existing § 23-40 are recommended for repeal as**  
2303 **obsolete.**

2304 ~~§ 23-41.23.1-2801. Appointment of visitors generally; number and terms; vacancies~~  
2305 ~~Membership.~~

2306 ~~A. The board of visitors is to shall~~ consist of 17 members ~~to be~~ appointed by the  
2307 Governor, ~~four of whom may be nonresidents of Virginia of whom at least 13 shall be residents~~  
2308 ~~of the Commonwealth.~~

2309 ~~B. The alumni association of The University may submit to the Governor a list of at least~~  
2310 ~~three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a~~  
2311 ~~term or otherwise. The Governor may appoint a member from the list of nominees.~~

2312 ~~All appointments shall be for terms of four years each, except appointments to fill~~  
2313 ~~unexpired vacancies which shall be made by the Governor for the remainder of the unexpired~~  
2314 ~~terms. However, the term of the member holding the office of Rector on March 1, 2005, shall be~~  
2315 ~~extended for one year to June 30, 2006. The Governor may make an appointment for the~~  
2316 ~~member whose term is so extended to June 30, 2006, as though this service extension had not~~  
2317 ~~been granted and the term had expired as scheduled.~~

2318 ~~The board of visitors may be expanded to no more than 18 members from July 1, 2005,~~  
2319 ~~to June 30, 2006. Thereafter, the membership shall revert to 17 members. Reappointment by the~~  
2320 ~~Governor of any member eligible for the service extension shall be for the term of four years.~~

2321 ~~No person shall be eligible to serve more than two consecutive four-year terms, except~~  
2322 ~~that a member may be appointed to a term of less than four years immediately prior to or~~  
2323 ~~between the four-year terms. For the purpose of determining service eligibility, any term of~~  
2324 ~~service extended to June 30 of the respective year pursuant to this section shall be treated as a~~

2325 ~~four-year term. Hereafter, all appointments shall expire June 30 of the year in which the term~~  
2326 ~~expires.~~

2327 ~~All appointments are subject to confirmation by the General Assembly if in session~~  
2328 ~~when such appointments are made, and if not in session, at its next succeeding session.~~

2329 **Drafting note: Existing provisions relating to the membership of the board of**  
2330 **visitors are logically combined in this proposed section, existing provisions relating to the**  
2331 **terms and removal of members of the board are stricken and incorporated into proposed §**  
2332 **23.1-1300, and technical changes are made to conform the language to that of each other**  
2333 **baccalaureate public institution of higher education. In addition, obsolete language is**  
2334 **recommended for repeal.**

2335 ~~§ 23-42. Appointment of visitors from alumni.~~

2336 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him,~~  
2337 ~~before or after induction into office, by the alumni association of the College of William and~~  
2338 ~~Mary in Virginia, on or before the first day of December of any year next preceding a year in~~  
2339 ~~which the terms of any visitors will expire.~~

2340 ~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall~~  
2341 ~~certify this fact to the association and nominations may be submitted of qualified persons and~~  
2342 ~~the Governor may fill the vacancy, if his discretion so dictates, from among the eligible~~  
2343 ~~nominees of the association, whether or not alumni or alumnae.~~

2344 ~~(c) Every list shall contain at least three names for each vacancy to be filled.~~

2345 ~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

2346 **Drafting note: The provisions of existing § 23-42 are stricken and incorporated**  
2347 **instead into proposed § 23.1-2801.**

2348 ~~§ 23-43.~~

2349 **Drafting note: Repealed by Acts 1975, c. 484.**

2350 ~~§ 23-44. Rights, powers and duties of board in general.~~

2351 ~~The board of visitors shall be vested with all the rights and powers conferred by the~~  
2352 ~~provisions of this chapter and by the ancient royal charter of the College of William and Mary in~~  
2353 ~~Virginia, insofar as the same are not inconsistent with the provisions of this chapter and the~~  
2354 ~~general laws of the Commonwealth.~~

2355 ~~The board shall control and expend the funds of the colleges and any appropriation~~  
2356 ~~hereafter provided, and shall make all needful rules and regulations concerning the colleges, and~~  
2357 ~~generally direct the affairs of the colleges.~~

2358 **Drafting note: The provisions of existing § 23-44 are stricken and incorporated**  
2359 **instead into proposed § 23.1-2802 and proposed § 23.1-1301.**

2360 ~~§ 23-46~~ 23.1-2802. Conferring of degrees Powers and duties.

2361 A. The board shall generally direct the affairs of the University and Richard Bland  
2362 College.

2363 B. ~~The board of visitors shall have the right to~~ may confer degrees.

2364 **Drafting note: Subsection A incorporates the board's duty to generally direct the**  
2365 **affairs of the University and College set forth in existing § 23-44 and subsection B**  
2366 **incorporates the board's power to confer degrees set forth in existing § 23-46. Technical**  
2367 **changes are made.**

2368 ~~§ 23-44.1~~ 23.1-2803. Investment of endowment funds, endowment income, ~~and gifts;~~  
2369 ~~standard of care; liability; exemption from the Virginia Public Procurement Act etc.~~

2370 A. As used in this section:

2371 "Derivative" means a contract or financial instrument or a combination of contracts and  
2372 financial instruments, including any contract commonly known as a "swap," that gives the  
2373 University the right or obligation to deliver, receive delivery of, or make or receive payments  
2374 based on changes in the price, value, yield, or other characteristic of a tangible or intangible  
2375 asset or group of assets or changes in a rate, index of prices or rates, or other market indicator  
2376 for an asset or group of assets.

2377 "Option" means an agreement or contract whereby the University may grant or receive  
2378 the right to purchase, sell, or pay or receive the value of any personal property asset, including  
2379 any agreement or contract that relates to any security, contract, or agreement.

2380 "Financial security" means any note, stock, treasury stock, bond, debenture, evidence of  
2381 indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of  
2382 subscription, transferable share, investment contract, voting-trust certificate, certificate of  
2383 deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; any put,  
2384 call, straddle, option, or privilege on any security, certificate of deposit, or group or index of  
2385 securities (including any interest therein or based on the value thereof); any put, call, straddle,  
2386 option, or privilege entered into on a national securities exchange relating to foreign currency; in  
2387 general, any interest or instrument commonly known as a "security;" or any certificate of  
2388 interest or participation in, temporary or interim security for, receipt for, guarantee of, or  
2389 warrant or right to subscribe to or purchase any financial security.

2390 B. The board ~~of visitors~~ shall invest and manage the endowment funds, endowment  
2391 income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the  
2392 College University in accordance with this section and the provisions of the Uniform Prudent  
2393 Management of Institutional Funds Act (§ 64.2-1100 et seq.).

2394 B.C. No member of the board ~~of visitors~~ shall be personally liable for losses suffered by  
2395 ~~an~~ any endowment fund, endowment income, ~~gifts~~ gift, ~~all~~ other nongeneral fund ~~reserves~~  
2396 reserve and ~~balances~~ balance, or local funds of or held by the ~~College, University~~ arising from  
2397 investments made pursuant to the provisions of subsection A.

2398 C.D. The investment and management of endowment funds, endowment income, gifts,  
2399 all other nongeneral fund reserves and balances, or local funds of or held by the ~~College~~  
2400 University shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-  
2401 4300 et seq.).

2402 D.E. In addition to the investment practices authorized by the Uniform Prudent  
2403 Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board ~~of visitors~~ may ~~also~~

2404 invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund  
2405 reserves and balances, and local funds of or held by the College University in derivatives,  
2406 options, and financial securities.

2407 ~~1. In this section, "derivative" means a contract or financial instrument or a combination~~  
2408 ~~of contracts and financial instruments, including, without limitation, any contract commonly~~  
2409 ~~known as a "swap," which gives the College the right or obligation to deliver or receive delivery~~  
2410 ~~of, or make or receive payments based on, changes in the price, value, yield or other~~  
2411 ~~characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index~~  
2412 ~~of prices or rates, or other market indicator for an asset or a group of assets.~~

2413 ~~2. In this section, an "option" means an agreement or contract whereby the College may~~  
2414 ~~grant or receive the right to purchase or sell, or pay or receive the value of, any personal~~  
2415 ~~property asset including, without limitation, any agreement or contract that relates to any~~  
2416 ~~security, contract, or agreement.~~

2417 ~~3. In this section, "financial security" means any note, stock, treasury stock, bond,~~  
2418 ~~debenture, evidence of indebtedness, certificate of interest, collateral trust certificate,~~  
2419 ~~preorganization certificate of subscription, transferable share, investment contract, voting trust~~  
2420 ~~certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other~~  
2421 ~~mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit,~~  
2422 ~~or group or index of securities (including any interest therein or based on the value thereof), or~~  
2423 ~~any put, call, straddle, option, or privilege entered into on a national securities exchange relating~~  
2424 ~~to foreign currency, or in general, any interest or instrument commonly known as a "security,"~~  
2425 ~~or any certificate of interest or participation in, temporary or interim security for, receipt for,~~  
2426 ~~guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

2427 E.F. The authority ~~as~~ provided in this section ~~as it relates~~ to invest and reinvest  
2428 nongeneral fund reserves and balances of or held by the College University is predicated upon  
2429 an approved management agreement between the College University and the Commonwealth ~~of~~  
2430 Virginia.

2431 **Drafting note: Technical changes.**

2432 ~~§ 23-45. Board may fix tuition, fees and other charges.~~

2433 ~~The board of visitors may fix in their discretion, the rates charged the students of the~~  
2434 ~~colleges for tuition, fees and other necessary charges.~~

2435 **Drafting note: The provisions of existing § 23-45 are stricken and incorporated**  
2436 **instead into proposed § 23.1-1301.**

2437 ~~§ 23-47 23.1-2804. Courses for educating and training Program of instruction to educate~~  
2438 ~~and train teachers to be maintained.~~

2439 ~~The College University shall maintain in connection with its courses a system a program~~  
2440 ~~of instruction and training for the purpose of educating and training to educate and train~~ teachers  
2441 for the public elementary and secondary schools of the Commonwealth without excluding other  
2442 programs of instruction.

2443 **Drafting note: Technical changes.**

2444 ~~§ 23-48.~~

2445 **Drafting note: Repealed by Acts 1960, c. 180.**

2446 ~~§ 23-49 23.1-2805. Students Duties; student admissions; degrees.~~

2447 ~~The College University shall admit properly prepared men and women to its courses,~~  
2448 and upon completion of the requirements shall grant them degrees.

2449 **Drafting note: Technical change.**

2450 ~~§ 23-49.1 23.1-2806. Constituent colleges; administration, bylaws, titles, etc Richard~~  
2451 ~~Bland College.~~

2452 A. ~~The College of William and Mary in Virginia, in Williamsburg, and the Richard~~  
2453 ~~Bland College, in Petersburg~~ shall be subject to the supervision, management and control of the  
2454 board of visitors of the College of William and Mary in Virginia. Such colleges shall be separate  
2455 from each other and each college shall report directly to the board of visitors through the  
2456 president in the case of the College of William and Mary in Virginia, and as the board of visitors  
2457 may direct in the case of the Richard Bland College a separate college under the supervision,

2458 management, and control of the board. Richard Bland College shall report to the board in such  
2459 manner as the board may coordinate and direct.

2460 B. The board shall establish and publish bylaws for Richard Bland College that define  
2461 the school's functions.

2462 C. All property, property rights, duties, contracts, and agreements of ~~the colleges~~  
2463 Richard Bland College are vested in the board ~~of visitors of the College of William and Mary in~~  
2464 Virginia. The chief executive officer of the College of William and Mary in Virginia shall be the  
2465 president; the title of the

2466 D. The board shall designate a chief executive officer of ~~the~~ Richard Bland College ~~shall~~  
2467 be designated by the board of visitors.

2468 E. ~~The board of visitors of the College of William and Mary in Virginia is charged with~~  
2469 the care and preservation of shall care for and preserve all property belonging to ~~the colleges~~  
2470 Richard Bland College.

2471 ~~With respect to the Richard Bland College, the~~ F. ~~The board of visitors shall have the~~  
2472 same powers as to fixing tuitions (i) fix tuition, fees, and other necessary charges, ~~as to the~~  
2473 appointment and removal of administrative officers, professors, agents, and employees; (ii)  
2474 appoint, remove, and define the responsibilities of the chief executive; and ~~the making of~~ (iii)  
2475 make such rules and regulations, ~~as are now vested in them with respect to the College of~~  
2476 William and Mary in Virginia as it deems appropriate for Richard Bland College.

2477 C. ~~Appropriations directly and indirectly from the Commonwealth to the colleges shall~~  
2478 be expended as directed by the board of visitors of the College of William and Mary in Virginia.

2479 D. ~~The board of visitors of the College of William and Mary in Virginia is authorized~~  
2480 and directed to prepare the bylaws for the colleges and to publish the same and to define the  
2481 functions of the colleges, and to specify the responsibilities of the chief executive officers, all  
2482 professors, teachers and agents of the colleges, as the board may deem necessary.

2483 ~~E. The board of visitors of the College of William and Mary in Virginia shall designate~~  
2484 ~~the organizational channel of coordination and supervision of the Richard Bland College for~~  
2485 ~~administration by the board of visitors.~~

2486 ~~F. The use of the library of the College of William and Mary in Virginia, in~~  
2487 ~~Williamsburg, shall be granted to the students and faculty of Christopher Newport University.~~

2488 ~~G. The board of visitors of the College of William and Mary in Virginia shall make~~  
2489 ~~cooperative agreements with the board of visitors of Christopher Newport University for the~~  
2490 ~~sharing of faculty and of laboratory and other facilities.~~

2491 **Drafting note: Subsections C, F, and G of existing § 23-49.1 are stricken as obsolete.**

2492 **Technical changes are made.**

2493 § ~~23-49.1-1~~ 23.1-2807. Virginia Institute of Marine Science ~~subject to board of visitors.~~

2494 The Virginia Institute of Marine Science (the Institute) shall be subject to the  
2495 supervision, management, and control of the board ~~of visitors of the College of William and~~  
2496 ~~Mary in Virginia.~~ The ~~board of visitors~~ University shall provide for the administration of the  
2497 Institute and ~~shall~~ appoint and remove its administrative and professional staff.

2498 **Drafting note: Technical changes.**

2499 § ~~23-4.01~~ 23.1-2808. Approval for transfer of ~~property~~ College Woods.

2500 A. The property known as College Woods that includes Lake Matoaka and is possessed  
2501 and controlled by ~~a college founded in 1693~~ the University, regardless of whether such property  
2502 has been declared surplus property pursuant to § 2.2-1153, shall not be transferred or disposed  
2503 of without the approval of the board ~~of visitors of such college~~ by a two-thirds vote of all ~~board~~  
2504 members at a regularly scheduled board meeting. The General Assembly shall also approve  
2505 such disposal or transfer.

2506 B. The provisions of subsection A shall not operate to prevent the transfer or dedication  
2507 to the Virginia Department of Transportation (the Department) of a portion of the property  
2508 described in subsection A, together with a temporary construction easement and a permanent

2509 easement for drainage, sufficient to permit the reconstruction of the intersection of Virginia  
2510 Route 615 (Ironbound Road) and Virginia Route 321 (Monticello Avenue).

2511 C. In order for any transfer or dedication set forth in subsection B to the Department to  
2512 occur:

2513 1. The Department shall remain within the boundaries or dedication area identified as a  
2514 right-of-way addition of approximately 1.63 acres and easement areas as detailed on Exhibit A,  
2515 labeled Proposed Right-of-Way and Easement Dedication by The College of William and Mary  
2516 for Widening of the Intersection of Monticello Avenue and Ironbound Road and dated January  
2517 9, 2004, drawn by AES Consulting Engineers of Williamsburg, Virginia, in completion of any  
2518 reconstruction of such intersection;

2519 2. The Department shall employ and construct all required best management practices  
2520 and erosion and sediment control measures to minimize and mitigate any impacts to College  
2521 Woods and Lake Matoaka; and

2522 3. The Department shall vacate, subject to a reserved drainage easement, approximately  
2523 3.22 acres of right-of-way and ~~re-designate~~ redesignate such to the ~~College University~~ so that  
2524 the ~~College University~~ has confirmed encumbrances. This vacation shall create not less than a  
2525 ~~78-foot~~ 78-foot right-of-way and shall not create or provide for any easements except for such  
2526 reserved drainage easement from approximately 1,000 feet east of Virginia Route 615  
2527 (Ironbound Road) to approximately 4,000 feet east of Virginia Route 615 (Ironbound Road)  
2528 along Virginia Route 321 (Monticello Avenue) identified on Exhibit A, labeled Proposed Right-  
2529 of-Way and Easement Dedication by The College of William and Mary for Widening of the  
2530 Intersection of Monticello Avenue and Ironbound Road and dated January 9, 2004, drawn by  
2531 AES Consulting Engineers of Williamsburg, Virginia, as right-of-way abandonment. This  
2532 vacation to create a right-of-way width shall not allow for a ~~road-widening~~ road-widening to add  
2533 additional travel lanes for the remainder of Virginia Route 321 (Monticello Avenue).

2534 D. The provisions of subsection A shall not operate to prevent the transfer or dedication  
2535 to the Department of a portion of the property described in subsection A, together with

2536 easements for slope, drainage, and utilities, sufficient to permit the reconstruction and widening  
2537 of Virginia Route 615 (Ironbound Road).

2538 E. For any transfer or dedication to the Department to occur pursuant to subsection D,  
2539 the Department shall:

2540 1. ~~Shall remain~~ Remain within the boundaries identified as a proposed right-of-way  
2541 dedication area of approximately 0.38 acres and easement areas as detailed on Exhibit B,  
2542 labeled Proposed Right-of-Way and Easement Dedication by The College of William and Mary  
2543 for Widening of Ironbound Road to Four Lanes and dated January 9, 2004, drawn by AES  
2544 Consulting Engineers of Williamsburg, Virginia, in completion of the widening of Virginia  
2545 Route 615 (Ironbound Road), except with respect to that portion of Virginia Route 615  
2546 (Ironbound Road) to be widened in connection with the reconstruction of the intersection as  
2547 described, and as provided for, in subsections B and C; and

2548 2. ~~Shall employ~~ Employ and construct all required best management practices and  
2549 erosion and sediment control measures to minimize and mitigate any impacts to College Woods  
2550 and Lake Matoaka.

2551 F. The provisions of subsections B and C shall not become effective until a  
2552 reconstruction of the intersection has been designed and fully funded as required by the  
2553 Department.

2554 G. The provisions of subsections D and E shall not become effective until the widening  
2555 of the portion of Ironbound Road described therein has been designed and fully funded as  
2556 required by the Department.

2557 **Drafting note: Technical changes.**

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