

SENATE BILL 812

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2004 Regular Session
4lr2868
CF 4lr3066

By: **Senator Hogan**

Introduced and read first time: February 18, 2004

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 23, 2004

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2004

CHAPTER 311

1 AN ACT concerning

2 **Higher Education – ~~University System of Maryland~~ - Approval of New**
3 **Programs – ~~Repeal of Sunset~~**

4 FOR the purpose of altering certain procedures governing the proposal and approval
5 of new programs at certain institutions of higher education; altering certain
6 reporting requirements; altering the criteria for the review of certain programs;
7 altering the basis for filing certain objections to the implementation of certain
8 programs; requiring the Maryland Higher Education Commission to identify
9 certain low-productivity programs at certain institutions; requiring a certain
10 report to be made available to certain institutions of higher education; requiring
11 the Board of Regents of the University System of Maryland to ensure that
12 certain programs meet certain needs; repealing a certain termination provision
13 relating to procedures governing the approval of new programs at constituent
14 institutions of the University System of Maryland; defining certain terms; and
15 generally relating to the approval of new programs at ~~the University System of~~
16 ~~Maryland~~ institutions of higher education in the State.

17 BY repealing and reenacting, ~~without~~ with amendments,
18 Article - Education
19 Section ~~41-206.1~~ 11-206(a), 11-206.1, and 12-106(d) and (e)
20 Annotated Code of Maryland
21 (2001 Replacement Volume and 2003 Supplement)

22 BY repealing and reenacting, with amendments,
23 Chapter 515 of the Acts of the General Assembly of 1999, as amended by
24 Chapter 244 of the Acts of the General Assembly of 2002

1 Section 11

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Education**

5 11-206.

6 (a) This section does not apply to:

7 (1) New programs proposed to be implemented by [a constituent
8 institution of the University System of Maryland] PUBLIC AND NONPUBLIC
9 INSTITUTIONS OF HIGHER EDUCATION using existing program resources in
10 accordance with § 11-206.1 of this subtitle; and

11 (2) Programs offered by institutions of higher education that operate in
12 the State without a certificate of approval in accordance with § 11-202(c)(2) or (3) of
13 this subtitle.

14 11-206.1.

15 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (1) "PUBLIC INSTITUTION OF HIGHER EDUCATION" MEANS:

18 (I) A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION; AND

19 (II) A COMMUNITY COLLEGE.

20 (2) "NONPUBLIC INSTITUTION OF HIGHER EDUCATION" MEANS A
21 REGIONALLY ACCREDITED INSTITUTION OF HIGHER EDUCATION ELIGIBLE FOR AID
22 UNDER § 17-103 OF THIS TITLE.

23 (a) (B) (1) A president of a ~~constituent institution of the University System~~
24 of Maryland PUBLIC INSTITUTION OF HIGHER EDUCATION may propose to establish a
25 new program or abolish an existing program if the action:

26 (i) Is consistent with the institution's adopted mission statement
27 under Subtitle 3 of this title; and

28 (ii) Can be implemented within the existing program resources of
29 the institution.

30 (2) A PRESIDENT OF A NONPUBLIC INSTITUTION OF HIGHER
31 EDUCATION MAY PROPOSE TO ESTABLISH A NEW PROGRAM IF THE ACTION:

32 (I) IS CONSISTENT WITH THE MISSION STATEMENT PUBLISHED IN
33 THE OFFICIAL CATALOG OF THE NONPUBLIC INSTITUTION; AND

1 (II) CAN BE IMPLEMENTED WITHIN THE EXISTING RESOURCES OF
2 THE INSTITUTION.

3 ~~(2)~~ (3) The president OF A PUBLIC INSTITUTION OF HIGHER
4 EDUCATION shall report any programs that are proposed to be established or
5 abolished in accordance with paragraph (1) of this subsection to:

6 (i) The institution's governing board; and

7 (ii) The Maryland Higher Education Commission.

8 (4) THE PRESIDENT OF A NONPUBLIC INSTITUTION OF HIGHER
9 EDUCATION SHALL REPORT ANY PROGRAMS THAT ARE PROPOSED TO BE
10 ESTABLISHED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION TO THE
11 COMMISSION.

12 ~~(3)~~ (5) Upon receipt of a proposed new program, the Commission shall
13 notify all other institutions of higher education in the State.

14 ~~(b)~~ (C) The ~~institution's governing board~~ GOVERNING BOARD OF A PUBLIC
15 INSTITUTION OF HIGHER EDUCATION shall:

16 (1) Review the actions taken under subsection ~~(a)~~ (B) of this section;

17 (2) Ensure that any new program proposed to be established by a
18 president:

19 (i) Is consistent with the institution's approved mission statement
20 under Subtitle 3 of this title;

21 (II) MEETS A REGIONAL OR STATEWIDE NEED CONSISTENT WITH
22 THE MARYLAND STATE PLAN FOR POSTSECONDARY EDUCATION;

23 ~~(ii)~~ (III) Meets criteria for the quality of new programs, developed
24 in consultation with the Commission; and

25 ~~(iii)~~ (IV) Can be implemented within the existing program
26 resources of the institution, verified by a process established in consultation with the
27 Commission; ~~and~~.

28 ~~(3)~~ Approve (D) THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM
29 OF MARYLAND SHALL APPROVE the proposed new program within 60 days if the
30 program meets the criteria in ~~paragraph (2) of this subsection~~ SUBSECTION (C)(2) OF
31 THIS SECTION, subject to the provisions of subsections ~~(e) and (f)~~ (E) AND (F) of this
32 section.

33 ~~(e)~~ (E) Within 30 days of receipt of a notice of an institution's intent to
34 establish a new program in accordance with subsection ~~(a)~~ (B) of this section, the
35 Commission may file, or the institutions of higher education in the State may file

1 with the Commission, an objection to implementation of a proposed program provided
2 the objection is based on:

3 (1) Inconsistency of the proposed program with the institution's
4 approved mission FOR A PUBLIC INSTITUTION OF HIGHER EDUCATION AND THE
5 MISSION STATEMENT PUBLISHED IN THE OFFICIAL CATALOG OF A NONPUBLIC
6 INSTITUTION OF HIGHER EDUCATION;

7 (2) NOT MEETING A REGIONAL OR STATEWIDE NEED CONSISTENT WITH
8 THE MARYLAND STATE PLAN FOR POSTSECONDARY EDUCATION;

9 ~~(2)~~ (3) Unreasonable program duplication which would cause
10 demonstrable harm to another institution; or

11 ~~(3)~~ (4) Violation of the State's equal educational opportunity
12 obligations under State and federal law.

13 ~~(4)~~ (F) (1) If an objection is filed under subsection ~~(e)~~ (E) of this section by
14 the Commission or an institution within 30 days of receipt of a notice of an
15 institution's intent to establish a new program, the Commission shall immediately
16 notify the institution's governing board and president.

17 (2) The Commission shall determine if an institution's objection is
18 justified based on the criteria in subsection ~~(e)~~ (E) of this section.

19 (3) An objection shall be accompanied by detailed information
20 supporting the reasons for the objection.

21 (4) If the Commission determines that an objection is justified, the
22 Commission shall negotiate with the institution's governing board and president to
23 modify the proposed program in order to resolve the objection.

24 (5) If the objection cannot be resolved within 30 days of receipt of an
25 objection, the Commission shall make a final determination on approval of the new
26 program FOR A PUBLIC INSTITUTION OF HIGHER EDUCATION OR A FINAL
27 RECOMMENDATION ON IMPLEMENTATION FOR A NONPUBLIC INSTITUTION OF
28 HIGHER EDUCATION.

29 ~~(e)~~ (G) (1) The Commission shall:

30 (i) Identify programs established under subsection ~~(a)~~ (B) of this
31 section that are inconsistent with the State Plan for Higher Education; and

32 (ii) Identify low productivity programs AT PUBLIC INSTITUTIONS
33 OF HIGHER EDUCATION.

34 (2) If the Commission identifies any programs that meet the criteria set
35 forth in paragraph (1) of this subsection, the Commission shall notify the president of
36 the institution.

1 (3) If the Commission notifies a president of an institution under
 2 paragraph (2) of this subsection, within 60 days the president of the institution shall
 3 provide to the Commission in writing:

4 (i) An action plan to abolish or modify the program; or

5 (ii) Justification for the continuation of the program.

6 ~~(F)~~ (H) The Commission and the governing boards of the public institutions
 7 of higher education shall jointly develop a definition and accepted criteria for
 8 determining low productivity programs.

9 ~~(G)~~ (I) The Commission shall:

10 (1) Monitor the program development and review process established
 11 under this section;

12 (2) Report annually to the Governor, ~~the Board of Regents~~, and, in
 13 accordance with § 2-1246 of the State Government Article, the General Assembly on
 14 the nature and extent of any duplication or proliferation of programs; and

15 (3) ~~On or before January 1, 2004, submit a report to the Governor, the~~
 16 ~~Board of Regents, and, in accordance with § 2-1246 of the State Government Article,~~
 17 ~~the General Assembly on:~~

18 ~~(i) The impact of the program development and review process on~~
 19 ~~the quality and accessibility of postsecondary education in the State; and~~

20 ~~(ii) Any increased costs due to duplication of programs~~ MAKE
 21 AVAILABLE A COPY OF THE REPORT UNDER PARAGRAPH (2) OF THIS SUBSECTION TO
 22 THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION AND THE NONPUBLIC
 23 INSTITUTIONS OF HIGHER EDUCATION.

24 12-106.

25 (d) With respect to each institution under its jurisdiction, and subject to the
 26 provisions of Title 11 of this article, in consultation with the Chancellor, the Board
 27 shall:

28 (1) Review each new program proposed to be established and
 29 implemented within existing program resources in accordance with § 11-206.1 of this
 30 article;

31 (2) Ensure that the new program:

32 (i) Is consistent with the institution's adopted mission statement
 33 in accordance with Title 11, Subtitle 3 of this article;

34 (II) MEETS A REGIONAL OR STATEWIDE NEED CONSISTENT WITH
 35 THE MARYLAND STATE PLAN FOR POSTSECONDARY EDUCATION;

