

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

Senate Bill 823 (Senator Rosapepe, *et al.*)
 Education, Health, and Environmental Affairs

Maryland College Education Export Act of 2014

This bill authorizes the Maryland Higher Education Commission (MHEC) to enter into the State Authorization Reciprocity Agreement (SARA), and it exempts an institution that participates in SARA from being required to register with MHEC within three months of enrolling the first Maryland student in a fully online distance education program.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Assuming MHEC enters into SARA in FY 2015, special fund revenues from registration fees from out-of-state institutions that currently need to register directly with MHEC decrease by an estimated \$61,000 in FY 2015, escalating to \$127,000 in FY 2016. Future years reflect a steady decrease in registration fees. However, this loss in special fund revenue may be partially or fully mitigated by SARA fees charged to Maryland institutions that choose to participate in SARA (not shown). General fund expenditures increase by \$62,100 for MHEC to hire a full-time educational specialist to verify institutions for SARA and address additional student complaints. Out-year expenditures reflect annualization, regular salary increases, and inflation. Public four-year institutions and Baltimore City Community College have the option to join SARA, which may increase or decrease their required registration fees.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
SF Revenue	(\$61,000)	(\$127,000)	(\$132,000)	(\$137,000)	(\$142,000)
GF Expenditure	\$62,100	\$79,200	\$82,900	\$86,800	\$90,800
Net Effect	(\$123,100)	(\$206,200)	(\$214,900)	(\$223,800)	(\$232,800)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local community colleges that offer distance education courses outside of Maryland have the option to join SARA, which may increase or decrease their required registration fees.

Small Business Effect: None.

Analysis

Current Law: Chapters 595 and 596 of 2012, as amended by Chapter 490 of 2013, established registration requirements for institutions of higher education that enroll Maryland students in a *fully online* distance education program. Since all public and private nonprofit institutions were already required to submit any academic programs to MHEC, the law primarily affected for-profit institutions and out-of-state institutions that do not have a physical presence in Maryland. An institution required to register with MHEC must be accredited by an accrediting body recognized and approved by the U.S. Department of Education and also meet a number of specified financial conditions and business practices, including complying with the student refund policy and procedures established by MHEC. An institution required to register with MHEC must pay a fee to be set in regulation by MHEC, and it may be required to furnish a bond or other form of financial guarantee to the State, to be used to reimburse any student who is entitled to a refund of tuition and fees due to the institution's breach of agreement or contract with the student or the State.

MHEC must make public and post on its website (1) a list of registered institutions of postsecondary education that offer fully online distance education programs in the State and (2) the names of institutions for which MHEC denied or revoked registration. MHEC may impose various penalties on institutions that fail to comply with the registration requirements.

“Distance education” is defined as course work taught by an institution of postsecondary education through electronic distribution of instruction to a site other than the principal location of the institution and advertised or described as leading to the formal award of a certificate or degree.

“Fully online distance education program in the State” is defined as a program in which:

- 100% of the program is offered through electronic distribution of instruction to one or more sites other than the principal location of an institution; or
- 51% or more of the program is offered through electronic distribution of instruction to one or more sites other than the principal location of an institution

and MHEC has determined that the portion of the program offered at a location in the State, if any, does not require a certificate of approval for the institution to operate in the State.

An institution of higher education that is subject to MHEC program review or that participates in the Southern Regional Education Board's (SREB) Electronic Campus is not required to register with MHEC to offer a fully online distance education program in the State.

Background: SARA is an agreement among member states, districts, and territories that establishes comparable national standards for interstate offering of postsecondary distance education courses and programs. It is intended to make it easier for students to take online courses offered by postsecondary institutions based in another state. SARA is overseen by a National Council and administered by four regional education compacts, including SREB to which Maryland belongs.

SARA membership is voluntary. States may choose to join SARA through the regional compact to which they belong. The National Council for SARA will maintain a list of SARA member states and institutions operating under SARA. Indiana became the first state to join SARA in February 2014.

SARA participation is by institution, so the institutions in a state system, or those with common ownership but which operate separately, must apply separately. An independently accredited entity must apply to SARA separately. A branch campus that operates under the accreditation of a main campus is not considered a separate institution for purposes of SARA. Thus, even if a State belongs to SARA, each college or university must decide for itself whether to operate under SARA. However, before operating under SARA, an institution must be authorized by its home state, by the appropriate body. In Maryland, MHEC is the appropriate authorizing body.

As shown in **Exhibit 1**, the National Council for SARA has established an annual fee structure based on enrollment to belong to SARA. To start, annual fees will range from \$2,000 to \$6,000 per institution. These annual fees will be paid to the National Council, which will distribute them to the four regions under a formula system.

Exhibit 1
Annual Institutional Participation Fee for
State Authorization Reciprocity Agreement (SARA)
November 2013

<u>Enrolled Full-time Equivalent Students</u>	<u>Annual Institutional Participation Fee</u>
Under 2,500	\$2,000
2,500 to 9,999	\$4,000
10,000 or more	\$6,000

Source: National Council for State Authorization Reciprocity Agreement

MHEC reports that there are currently 176 out-of-state institutions offering online courses registered in Maryland. MHEC did not indicate whether it plans to join SARA.

State Revenues: Special fund revenues from registration fees from out-of-state institutions that currently need to register directly with MHEC decrease by an estimated \$61,000 in fiscal 2015, assuming MHEC enters into SARA early in fiscal 2015, and escalating to \$127,0000 in fiscal 2016. The following information and assumptions were used in this estimate.

- MHEC advises that there are currently 176 out-of-state institutions offering online courses registered with MHEC. According to the Maryland Code of Regulations, each of these institutions is required to pay MHEC an annual registration fee of \$1,000.
- MHEC reports that there are currently 61 institutions registered with MHEC to offer online courses to Maryland students from the 20 SARA “early adopter” states that are expected to join SARA in calendar 2014. Assuming that all 61 institutions register with SARA, these institutions do not have to register with MHEC for the 2014-2015 academic year. Thus, MHEC loses \$61,000 in special fund revenue from these institutions.
- MHEC reports that, an additional 18 states are anticipated to join SARA before the 2015-2016 academic year (fiscal 2016) after legislative changes. MHEC reports that there are currently 66 institutions from these states registered with MHEC. Thus, MHEC loses \$66,000 in revenue from these institutions in fiscal 2016 in addition to the \$61,000 from the 61 institutions that do not have to register in fiscal 2015, for a total loss in special fund revenue of \$127,000.

- MHEC reports that 12 states have yet to indicate their status with SARA. However, MHEC assumes that it loses 10% of the remaining 49 currently registered institutions (5 institutions) per year; thus, special fund revenues decrease by an estimated total of \$132,000 in fiscal 2017 (2016-2017 academic year), \$137,000 in fiscal 2018 (2017-2018 academic year); and \$142,000 in fiscal 2019 (2018-2019 academic year).

However, under SARA a state may gain fee revenue from its own institutions that participate in SARA if the state chooses to establish a SARA participation fee. Thus, the loss in special fund revenue from out-of-state registration fees may be partially or fully mitigated by SARA fees charged to Maryland institutions that choose to participate in SARA. MHEC did not indicate if it will charge this fee.

State Expenditures: General fund expenditures increase by \$62,114 in fiscal 2015 for MHEC to hire a full-time educational specialist to verify institutions for SARA and address additional student complaints. This estimate reflects a 90-day start-up delay following the bill’s July 1, 2014 effective date. The estimate includes a full-time salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

MHEC reports that, for a Maryland institution to participate in SARA, MHEC must (1) verify that the institution is accredited; (2) verify that private institutions have a federal financial responsibility rating of 1.5 (or 1.0 with justification); and (3) verify that the institution’s programs comply with the Council of Regional Accrediting Commission’s *Interregional Guidelines for the Evaluation of Distance Education*.

	<u>FY 2015</u>	<u>FY 2016</u>
New Position	1	
Salary and Fringe Benefits	\$57,309	\$78,629
Start-up/Operating Costs	<u>4,805</u>	<u>586</u>
Total Expenditures	\$62,114	\$79,215

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Institutions of higher education in the State will be able to choose whether to participate in SARA. In general, an institution that offers online or other distance education courses to students in several states may benefit from operating under SARA because that institution may have less paperwork and fewer fees to pay. An institution that only offers courses to students in one or two other states may opt to work directly with those states to obtain the necessary authorization rather than joining SARA. As shown in Exhibit 1, annual institutional fees for joining SARA will range from \$2,000 to \$6,000, based on the

enrollment of the institution. In addition, MHEC may also choose to charge Maryland institutions a SARA participation fee to offset expenditures and lost registration fee revenues. State-granted approvals to operate out-of-state distance education programs range in cost from \$750 (California) to \$25,000 (Georgia).

The University System of Maryland, St. Mary's College of Maryland, Morgan State University, and Baltimore City Community College did not provide information on whether they are currently registered to offer distance education in other states or whether they would choose to register with SARA; thus, a more accurate estimate on their expenditures under the bill cannot be determined.

Local Expenditures: Local community colleges that offer distance education courses have the option to join SARA, which may increase or decrease their required registration fees. It is unknown if any local community colleges currently offer distance education courses outside of Maryland.

Additional Comments: Private nonprofit institutions of higher education are able to choose whether to participate in SARA under the bill. In general, an institution that offers online or other distance education courses to students in several states may benefit from operating under SARA because that institution may have less paperwork and fewer fees to pay. An institution that only offers courses to students in one or two other states may opt to work directly with those states to obtain the necessary authorization rather than joining SARA.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Higher Education Commission, University System of Maryland, National Council for State Authorization Reciprocity Agreements, Department of Legislative Services

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ncs/rhh

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