

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 1194
 Appropriations

(Delegate Braveboy, *et al.*)

Budget and Taxation

Historically Black Colleges and Universities - Evaluation

This bill requires the Maryland Higher Education Commission (MHEC), in consultation with the Department of Budget and Management (DBM), to contract with a third party to conduct an evaluation of the needs of the State’s historically black colleges and universities (HBCUs) in order to be comparable and competitive with other public universities in the State. The evaluation must serve as a basis for development of a plan to ensure the long-term stability, comparability, and success of the HBCUs. The study must include an evaluation and recommendations in specified areas and other specified elements, which must be submitted by December 31, 2014, to the Governor and the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Maryland Legislative Black Caucus.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: General fund expenditures increase by \$100,000 to \$250,000 in FY 2015 (the midpoint is shown below) for MHEC to contract with a third party to conduct the evaluation as required by the bill. Revenues are not affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	175,000	0	0	0	0
Net Effect	(\$175,000)	\$0	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The study must include an evaluation and recommendations in the following areas: (1) institutional resources and State funding, including the 10-year enhancement plans developed by the HBCUs in 2013; (2) affordability for students and adequacy of student financial aid; (3) college readiness of students and the programs and strategies needed to improve student success; (4) degree completion; (5) proportion of full-time faculty; and (6) any other issues pertaining to the long-term success of the HBCUs. The evaluation must review recent studies on HBCUs, including the Commission to Develop the Maryland Model for Funding Higher Education's *2008 Final Report*. The evaluation must also propose a funding plan to meet the institutional needs identified in the report and recommendations.

Current Law/Background: In October 2006, the Coalition for Equity and Excellence in Maryland Higher Education, which is a group of former, current, and prospective students of Maryland's HBCUs, filed suit against MHEC alleging violations of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution, which protect against discrimination on the basis of race, color, or national origin.

In the coalition's lawsuit, three policies of the Maryland system of higher education allegedly traceable to the prior *de jure* (as a matter of law) segregated system were at issue: (1) limited institutional missions; (2) operational funding deficiencies; and (3) unnecessary program duplication. After a six-week bench trial in January and February 2013, the court did not find that mission-related policies or practices or current operational funding were traceable to the *de jure* era; however, the court did find that the State has failed to eliminate unnecessary program duplication for Maryland's HBCUs and that this policy is traceable to the *de jure* era. The 2014 issue paper on this topic, which includes a discussion of the case, can be found at the following link: (<http://mgaleg.maryland.gov/pubs/legislegal/2014rs-issue-papers.pdf>).

The court had previously granted the State's motion for summary judgment in part in June 2011 by ruling that a genuine dispute of material fact did not exist relating to capital budget funding and its traceability to the prior *de jure* system.

U.S. Office for Civil Rights

In 1969, the U.S. Office for Civil Rights (OCR) required Maryland, along with nine other states, to submit for approval by OCR a plan to remove all vestiges of its formerly segregated system of higher education. OCR asserted that Maryland and the other states had a responsibility to overcome past segregative practices and that it would not be enough to simply maintain nondiscriminatory admissions policies if the student racial

demographic at an institution was still reflective of the formerly *de jure* racial identification of that institution.

Over the course of the next 30 years, Maryland submitted and resubmitted various plans to OCR in order to enhance its public HBCUs. In December 2000, the State and OCR entered into a partnership agreement that included a commitment from the State to further enhance its four HBCUs (Bowie State University, Coppin State University, the University of Maryland Eastern Shore, and Morgan State University) and to improve higher education opportunities for African American students. This partnership agreement expired on December 31, 2005, and on June 19, 2006, Maryland submitted a final report on the Partnership Agreement Commitments to OCR. OCR acknowledged receipt of that 2006 report in 2008, but the State has not yet been released from its obligations under the agreement. Five other states (Florida, Ohio, Oklahoma, Pennsylvania, and Texas) also continue to be subject to monitoring by OCR in this regard.

The State's HBCUs continue to receive \$4.9 million in general funds annually for OCR enhancement funding through MHEC since the OCR partnership agreement expired at the end of 2005. This funding is not used to calculate the base operational funding for the public four-year institutions, which means that funding for community colleges and private nonprofit institutions of higher education is not increased due to this funding.

The OCR partnership agreement also included additional operating funding and capital funding for HBCUs.

The fiscal 2014 budget bill (Chapter 423 of 2013) required MHEC, in consultation with DBM, to undertake a study of the State's HBCUs. The study was required to serve as a basis for development of a plan to ensure the long-term stability and success of the HBCUs. The study was required to include an analysis and recommendations that address the following areas:

- institutional resource needs and the adequacy of State funding;
- affordability for students and adequacy of student financial aid;
- an assessment of the college readiness of students and programs and strategies to improve student success;
- strategies to increase degree completion;
- duplication of academic programs;
- campus leadership;
- adequacy of full-time faculty; and
- any other issues pertaining to the long-term success of the HBCUs.

MHEC, in consultation with DBM, was required to consult with the HBCUs and other stakeholders as appropriate to collect data, review current programs, assess needs, and develop recommendations. MHEC was required to submit a preliminary report by December 31, 2013, and a final report by December 31, 2014, to the Governor, the House Appropriations Committee, and the Senate Budget and Taxation Committee. However, MHEC and DBM did not begin the evaluation and did not submit a preliminary report.

State Expenditures: General fund expenditures increase by \$100,000 to \$250,000 for MHEC in fiscal 2015 to hire a third party to conduct the evaluation as required by the bill. MHEC advises that a recent less extensive study (a higher education needs assessment for the Frederick region) cost approximately \$75,000. It is assumed that the more extensive evaluation of the four public HBCUs as required by the bill requires additional resources. As stated above, the evaluation must include specified elements and propose a funding plan to meet the institutional needs identified in the report. In addition, the third party only has six months, from July 1, 2014, to December 31, 2014, to complete the report.

Additional Information

Prior Introductions: None.

Cross File: SB 1039 (Senator Conway, *et al.*) - Rules.

Information Source(s): Department of Budget and Management, Maryland Higher Education Commission, Department of Legislative Services

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