

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 647 (Senator Conway)

Budget and Taxation and Education, Health,
and Environmental Affairs

Public Higher Education - Use of Funds - Prohibition

This bill prohibits public institutions of higher education from using funds, including general funds, tuition and fees, and institutional funds, to provide for membership fees of a faculty or staff of the institution that are owed to, or travel expenses of a faculty or staff to attend meetings of, an organization that has issued a public resolution or statement or taken an official action boycotting a country that has ratified a declaration of cooperation with the State or the country's institutions of higher education. If a public institution of higher education uses funds that are prohibited under the bill, State funds allocated to the institution in the fiscal year following the prohibited use of funds are reduced by 3%. The bill does not prohibit an employee of a public college or university from using personal funds to belong to or participate in an organization described above.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Assuming public four-year institutions of higher education comply with the bill's requirements, higher education revenues are not directly affected. Higher education revenues to individual public institutions of higher education decline by 3% beginning in FY 2016 to the extent that institutions do not comply with the bill. It is assumed that any operational impact on individual institutions can be absorbed with existing budgeted resources. A reduction to the State appropriation to public four-year institutions that do not comply with the bill may reduce State funding for Baltimore City Community College's formula. Likewise, a reduction affects the State funding formula for community colleges and independent institutions through the Cade and Seller formulas.

Local Effect: A reduction in the State appropriation to public four-year institutions that do not comply with the bill may result in a reduction to the State appropriation to community colleges through the Cade funding formula. However, assuming both public four-year institutions and community colleges comply with the bill's requirements, community college revenues are not directly affected. It is assumed that any operational impact on individual institutions can be absorbed with existing budgeted resources.

Small Business Effect: None.

Analysis

Current Law: There is no direct prohibition on the use of funds for the purposes specified in the bill.

Background: The American Studies Association (ASA) was chartered in 1951 and is the oldest and largest association devoted to the interdisciplinary study of American culture and history in the United States. ASA is open to all persons who have an interdisciplinary interest in American culture. ASA has approximately 5,000 individual members representing most major academic fields, including the arts, social sciences, humanities, and sciences. Members include teachers, researchers, faculty and students, colleges and secondary schools, museum directors, librarians, and public officials. Membership dues for individuals vary by an applicant's income but generally range from \$20 to \$120 annually. A lifetime individual membership is \$1,500.

In December 2013, the ASA National Council adopted a resolution supporting a boycott of Israeli academic institutions. The resolution also states that ASA supports the protected rights of students and scholars everywhere to engage in research and public speaking about Israel-Palestine and in support of the boycott, divestment, and sanctions movement. The full text of the resolution can be found at: http://www.theasa.net/american_studies_association_resolution_on_academic_boycott_of_israel.

The resolution was subsequently endorsed by a vote of ASA members. According to ASA, in an election that attracted 1,252 voters, 66% of voters endorsed the resolution, 30.5% of voters voted no, and 3.5% abstained.

In a February 24, 2014 letter to the General Assembly, all 12 presidents of the constituent institutions of the University System of Maryland, the Board of Regents, and the Chancellor publicly expressed their opposition to the ASA boycott. Further, many other presidents of institutions of higher education across the country have publicly expressed disagreement with ASA's resolution.

Among the State's public four-year institutions of higher education, UMBC's Department of American Studies is the sole ASA institutional member. Institutional members are generally academic departments, programs, and centers. Given the controversial nature of the ASA boycott, the decision over whether the department should withdraw its institutional membership has been publicly raised. Institutional membership dues are \$170 and payable annually in July. The Governor's proposed fiscal 2015 budget includes \$113.0 million in State funds for UMBC. *For illustrative purposes only*, if UMBC does not comply with the bill (by not renewing its membership) in fiscal 2015, higher education revenues for UMBC would be reduced by 3% in fiscal 2016. (If effective in fiscal 2015, that reduction would equate to \$3.4 million.)

Other State Actions

Similar bills, A08392A and S06438, have recently been considered by the New York State Assembly. Generally, the bills prohibit the use of state aid by colleges and universities to fund or provide membership in academic institutions that are boycotting a country. Penalties are different under each bill but generally are tied to the institution's academic funding. Several states, including Pennsylvania and Florida, have also proposed resolutions in opposition to the ASA boycott.

Higher Education Funding Formulas

The Cade formula makes up the majority of State funding for the 15 locally operated community colleges in the State. Similar formulas distribute State funding to BCCC and independent institutions (through the Sellinger formula). The total funds to be distributed through each formula are based on a percentage of the State's per full-time equivalent student (FTES) funding for selected public four-year institutions of higher education. This per FTES amount is multiplied by total enrollment from the second prior year to arrive at the total formula amount. For community colleges, each college's share of the total is then based on its proportion of formula funding from the prior year and enrollment.

Additional Information

Prior Introductions: None.

Cross File: HB 998 (Delegate Kramer, *et al.*) - Appropriations.

Information Source(s): University System of Maryland, American Studies Association, New York Assembly, Department of Legislative Services

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Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510