

BY: Appropriations Committee

AMENDMENTS TO SENATE BILL NO. 232

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, after “composed;” insert “defining certain terms; providing that neither the faith and credit nor the taxing power of the State is pledged to the payment of debts, contracts, and obligations of the Program, institutions of higher education, and other participants in the Program;”; in line 10, after “and” insert “its”; in the same line, strike “must be approved by the General Assembly” and substitute “is subject to review by the General Assembly for information purposes”; and in line 15, after “assets;” insert “requiring the Board to purchase certain bonds for fiduciaries;”.

On page 2, in line 7, after “contract;” insert “requiring the Board to provide full disclosure that a contract is not a guarantee when undertaking marketing efforts;”; and in line 18, strike “Prepaid Tuition” and substitute “Higher Education Investment”.

AMENDMENT NO. 2

On page 3, in lines 27 and 34, in each instance, strike “SUBSECTION (G) OF THIS SECTION” and substitute “§ 18-1909(B) OF THIS SUBTITLE”; in line 36, strike “PREPAID TUITION” and substitute “HIGHER EDUCATION INVESTMENT”.

On page 4, strike in their entirety lines 1 through 3, inclusive; in line 4, strike “(H)” and substitute “(G)”; in line 20, strike “A PUBLIC” and substitute “AN”; in line 21, after the second “THE” insert “BOARD SHALL MAKE EVERY EFFORT TO INVEST THE ADVANCE PAYMENTS SO THAT THE”; in line 22, strike “COST OF” and substitute “AVERAGE”; and in line 23, after “TUITION” insert “COSTS AT PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE AT THE TIME THAT THE BENEFITS ARE EXERCISED”.

AMENDMENT NO. 3

On page 5, strike in their entirety lines 1 and 2 and substitute:

(Over)

“(F) (1) THE DEBTS, CONTRACTS, AND OBLIGATIONS OF THE PROGRAM ARE NOT THE CONTRACTS, DEBTS, OR OBLIGATIONS OF THE STATE AND NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE STATE IS PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY, MORALLY OR OTHERWISE, TO THE PAYMENT OF THE DEBTS, CONTRACTS, AND OBLIGATIONS.

(2) THE BOARD CANNOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE, MORALLY OR OTHERWISE, THE STATE TO LEVY OR PLEDGE ANY FORM OF TAXATION WHATSOEVER FOR THE DEBTS AND OBLIGATIONS OF THE PROGRAM OR TO MAKE ANY APPROPRIATION FOR THE PAYMENT OF THE DEBTS AND OBLIGATIONS OF THE PROGRAM.”.

AMENDMENT NO. 4

On page 5, in lines 6 and 7, strike “APPOINTED BY THE GOVERNOR”; in lines 10 and 11, in each instance, strike “A REPRESENTATIVE OF THE OFFICE OF”; in line 13, after “SHALL” insert “BE APPOINTED BY THE GOVERNOR AND SHALL”; in lines 23, 25, 28, and 29, in each instance, before “MEMBER” insert “PUBLIC”.

AMENDMENT NO. 5

On page 6, in lines 34 and 35, strike “THE APPROVAL OF THE GENERAL ASSEMBLY” and substitute “REVIEW BY THE GENERAL ASSEMBLY FOR INFORMATION PURPOSES ONLY”.

On page 7, in line 15, after “(8)” insert “SUBJECT TO THE REVIEW OF THE GENERAL ASSEMBLY,”.

AMENDMENT NO. 6

On page 9, strike in their entirety lines 16 through 29, inclusive.

On page 10, after line 32, insert:

“18-1908.

(A) THE BOARD SHALL PURCHASE A BOND FOR EACH FIDUCIARY IN ACCORDANCE WITH ARTICLE 78A, §§ 46 THROUGH 50 OF THE CODE.

(B) UNLESS A FIDUCIARY IS BONDED, THE FIDUCIARY MAY NOT EXERCISE CUSTODY OR CONTROL OF ANY ASSETS OF THE PROGRAM.

(C) A FIDUCIARY MAY NOT ALLOW ANOTHER FIDUCIARY TO ACT IN VIOLATION OF THIS SECTION.”.

On page 10, after line 38, insert:

“(B) (1) FOR THE PURPOSE OF ENTERING INTO A HIGHER EDUCATION INVESTMENT CONTRACT, EITHER THE PURCHASER OR THE QUALIFIED BENEFICIARY MUST BE A RESIDENT OF MARYLAND AT THE TIME THAT THE PURCHASER ENTERS INTO THE CONTRACT.

(2) FOR THE PURPOSES OF DETERMINING RESIDENCY FOR THE PURCHASE OF A HIGHER EDUCATION INVESTMENT CONTRACT, “RESIDENT” HAS THE MEANING STATED IN § 10-101(H) OF THE TAX - GENERAL ARTICLE.”.

AMENDMENT NO. 7

On page 11, after line 19, insert:

“(5) THE AMOUNT AND TERMS OF ANY ADMINISTRATIVE FEES WHICH MUST BE PAID BY THE PURCHASER OR THE BENEFICIARY;”;

in lines 1, 11, and 35, strike “(B)”, “(C)”, and “(D)”, respectively, and substitute “(C)”, “(D)”, and “(E)”, respectively; and in lines 20, 22, 24, 26, 28, 31, and 33, strike “(5)”, “(6)”, “(7)”, “(8)”, “(9)”, and “(10)”, respectively, and substitute “(6)”, “(7)”, “(8)”, “(9)”, “(10)”, and “(11)”, respectively.

AMENDMENT NO. 8

On page 11, after line 32, insert:

“(12) THE FOLLOWING NOTICE SHALL BE PRINTED ON EACH CONTRACT IN AT LEAST 10-POINT TYPE: THIS CONTRACT IS NOT AN OBLIGATION OF THE STATE AND NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE STATE IS

(Over)

PLEGGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY, MORALLY OR OTHERWISE, TO THE PAYMENT OF THIS CONTRACT. THE BOARD CANNOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE, MORALLY OR OTHERWISE, THE STATE TO LEVY OR PLEDGE ANY FORM OF TAXATION WHATSOEVER OR TO MAKE ANY APPROPRIATION FOR THE PAYMENT OF THIS CONTRACT; AND”;

in line 32, strike “AND”; and in line 33, strike “(11)” and substitute “(13)”.

AMENDMENT NO. 9

On page 12, in line 13, strike “OR”; in line 16, strike the period and substitute “; OR”.

On page 13, in line 6, before “NOTHING” insert “(A)”; and after line 9, insert:

“(B) THE ACTUAL TUITION RATE CHARGED TO A QUALIFIED BENEFICIARY SHALL BE DETERMINED AT THE TIME OF ENROLLMENT IN ACCORDANCE WITH THE RESIDENCY POLICY ADOPTED BY THE GOVERNING BOARD OF THE INSTITUTION OF HIGHER EDUCATION AT WHICH THE QUALIFIED BENEFICIARY ENROLLS.”.

AMENDMENT NO. 10

On page 13, in line 23, after “INCLUDING” insert “:

1.”;

in line 24, strike the semicolon and substitute “WHICH SHALL INCLUDE:

A. THE STATUS OF THE INVESTMENT PROGRAM, INCLUDING INVESTMENT INCOME MATCHED TO PROJECTED ENROLLMENT COSTS UNDER THE EXISTING CONTRACT;

B. THE ASSETS HELD IN EACH CLASS OF INVESTMENT, THE AMOUNT OF FUNDS HELD IN ANY CASH POOL, THE AMOUNT OF FUNDS HELD IN FIXED ASSETS INVESTMENTS, AND THE AMOUNT OF FUNDS HELD IN EQUITY INVESTMENTS;

C. THE PERCENTAGE AND DOLLAR VALUE OF ASSETS  
PLACED WITH OUTSIDE MANAGERS;

D. THE INCOME PRODUCED BY EACH CLASS OF  
INVESTMENT; AND

E. THE INCOME PRODUCED BY EACH INVESTMENT  
MANAGER; AND

2. A DETAILED ACCOUNT OF THE OPERATING AND  
ADMINISTRATIVE BUDGET FOR THE PROGRAM WHICH SHALL INCLUDE A COMPLETE  
LIST OF REVENUE SOURCES AND EXPENDITURES DETAILING THE LINE ITEM  
EXPENDITURES FOR:

A. SALARIES, WAGES, AND FRINGE BENEFITS;

B. TECHNICAL AND SPECIAL FEES;

C. COMMUNICATION;

D. TRAVEL;

E. CONTRACTUAL SERVICES;

F. SUPPLIES AND MATERIALS;

G. EQUIPMENT;

H. FIXED CHARGES; AND

I. OTHER EXPENSES.”.

AMENDMENT NO. 11

On page 14, after line 26, insert:

(Over)

“SECTION 5. AND BE IT FURTHER ENACTED, That any efforts undertaken by the Maryland Higher Education Investment Program Board to market the Maryland Higher Education Investment Program must include full disclosure that the contract entered into under the provisions of this Act does not guarantee that the earnings of the assets invested in the Program will generate the difference between the projected costs of tuition under the contract and the actual costs at the time of enrollment.”.

AMENDMENT NO. 12

On page 14, in line 27, strike “5.” and substitute “6.”; and in line 28, strike “October 1, 1997” and substitute “July 1, 1997”.