

BY: Budget and Taxation Committee

AMENDMENTS TO SENATE BILL NO. 232

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Blount” and substitute “Blount, Amoss, Boozer, Lawlah, McFadden, Middleton, Munson, Neall, Ruben, Van Hollen, Collins, Conway, Craig, Dyson, Frosh, Pinsky, and Sfikas”.

AMENDMENT NO. 2

On page 1, in lines 2, 5, and 6 and 7, in each instance, strike “Prepaid Tuition” and substitute “Higher Education Investment”; in line 3, strike the third “the”; in lines 4 and 13, in each instance, strike “public”; in line 8, after “Board;” insert “providing that the budget for the Maryland Higher Education Investment Board and staff must be approved by the General Assembly;”; in line 11, after “Program;” insert “establishing the fiduciary responsibilities of the Board; prohibiting certain transactions involving program assets;”; in lines 12, 15, 17, and 19, in each instance, strike “prepaid tuition” and substitute “higher education investment”; in line 12, after “for” insert “the advance payment of”; in line 17, after “contracts;” insert “providing for refunds under certain circumstances;”; and in line 27, strike “the public”.

On page 2, in line 2, strike “18-1914” and substitute “18-1916”.

AMENDMENT NO. 3

On page 2, in lines 27, 28, 32, and 34, in each instance, strike “PREPAID TUITION” and substitute “HIGHER EDUCATION INVESTMENT”.

On page 3, in lines 1, 26, 32, and 35, in each instance, strike “PREPAID TUITION” and substitute “HIGHER EDUCATION INVESTMENT”.

On page 4, in line 11, strike “PREPAID TUITION” and substitute “HIGHER EDUCATION INVESTMENT”.

(Over)

On page 6, in lines 2 and 7, in each instance, strike “PREPAID TUITION” and substitute “HIGHER EDUCATION INVESTMENT”.

On page 7, in lines 6, 7 and 8, 29, and 34, in each instance, strike “PREPAID TUITION” and substitute “HIGHER EDUCATION INVESTMENT”.

On page 8, in lines 2 and 6, in each instance, strike “PREPAID TUITION” and substitute “HIGHER EDUCATION INVESTMENT”.

On page 9, in lines 6, 19 and 20, 23, 30, and 33, in each instance, strike “PREPAID TUITION” and substitute “HIGHER EDUCATION INVESTMENT”.

On page 10, in lines 4, 16, 19, 29, 34, and 35, in each instance, strike “PREPAID TUITION” and substitute “HIGHER EDUCATION INVESTMENT”; on page 10, in line 37, strike “Prepaid”.

On page 11, strike beginning with “Tuition” in line 1 down through “Program.” in line 2, and substitute “Higher Education Investment Program for the administrative and start-up costs for the Maryland Higher Education Investment Program.”; in lines 4, 10, and 12, in each instance, strike “Prepaid Tuition” and substitute “Higher Education Investment”; and in line 10, strike “prepaid tuition” and substitute “higher education investment”.

#### AMENDMENT NO. 4

On page 3, in line 7, strike “WHO” and substitute “WHO”:

(1) “;

in line 9, strike “PREPAID TUITION CONTRACT.” and substitute “HIGHER EDUCATION INVESTMENT CONTRACT; AND”

(2) EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, IS A RESIDENT OF MARYLAND AT THE TIME THAT THE PURCHASER ENTERS INTO A HIGHER EDUCATION INVESTMENT CONTRACT.”;

in line 10, strike “IS”; in line 11, after “(1)” insert “IS”; in line 14, after “(2)” insert “EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, IS”; after line 15, insert:

“(G) EITHER THE PURCHASER OR THE BENEFICIARY MUST BE A RESIDENT OF MARYLAND AT THE TIME THAT THE PURCHASER ENTERS INTO A HIGHER EDUCATION INVESTMENT CONTRACT.”;

and in line 16, strike “(G)” and substitute “(H)”.

AMENDMENT NO. 5

On page 3, in lines 4, 12, and 16, in each instance, strike “A PUBLIC” and substitute “AN”; in line 24, strike “THE PUBLIC”; and in line 29, strike “PUBLIC”.

On page 9, in lines 8, 12, and 35, strike “A PUBLIC” and substitute “AN”.

AMENDMENT NO. 6

On page 4, after line 7, insert:

“(E) MONEYS OF THE PROGRAM MAY NOT BE CONSIDERED MONEYS OF THE STATE AND MAY NOT BE DEPOSITED INTO THE TREASURY.”;

and in line 8, strike “(E)” and substitute “(F)”.

AMENDMENT NO. 7

On page 5, after line 16 insert:

“(2) (I) EXCEPT FOR EMPLOYEES DESCRIBED IN SUBPARAGRAPH (II) OR (III) OF THIS PARAGRAPH, THE EMPLOYEES SHALL BE SKILLED SERVICE EMPLOYEES SUBJECT TO THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN SKILLED SERVICE EMPLOYEES.

(II) AN EMPLOYEE IS IN THE PROFESSIONAL SERVICE AND SUBJECT TO THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN PROFESSIONAL SERVICE EMPLOYEES IF THE POSITION:

1. REQUIRES KNOWLEDGE OF AN ADVANCED TYPE IN A

(Over)

FIELD OF SCIENCE OR LEARNING CUSTOMARILY ACQUIRED BY A COURSE OF SPECIALIZED INTELLECTUAL INSTRUCTION AND STUDY; AND

2. NORMALLY REQUIRES A PROFESSIONAL LICENSE, AN ADVANCED DEGREE, OR BOTH.

(III) AN EMPLOYEE IS IN THE MANAGEMENT SERVICE AND SUBJECT TO THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN MANAGEMENT SERVICE EMPLOYEES IF THE POSITION:

1. PRIMARILY INVOLVES DIRECT RESPONSIBILITY FOR THE OVERSIGHT AND MANAGEMENT OF PERSONNEL AND FINANCIAL RESOURCES;

2. REQUIRES THE EXERCISE OF DISCRETION AND INDEPENDENT JUDGMENT; AND

3. IS NOT IN THE EXECUTIVE SERVICE.”;

in line 17, strike “(2)” and substitute “(3)”; and after line 19, insert:

“(4) THE BUDGET FOR THE BOARD AND ITS STAFF IS SUBJECT TO THE APPROVAL OF THE GENERAL ASSEMBLY.”.

AMENDMENT NO. 8

On page 3, in line 33, after “OF” insert “IN-STATE”.

On page 6, in line 37, strike “ACTUAL COSTS AT THE TIME OF ENROLLMENT.” and substitute “THE AVERAGE IN-STATE TUITION COSTS AT PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE AT THE TIME THAT THE BENEFITS ARE EXERCISED.”.

On page 7, in line 35, after “CURRENT” insert “IN-STATE”.

On page 8 in line 23, strike “CONTRACT;” and substitute “CONTRACT, BASED ON”.

IN-STATE TUITION AT A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE;”.

AMENDMENT NO. 9

On page 6, after line 24, insert:

“(D) THE COMPREHENSIVE INVESTMENT PLAN MUST INDICATE THE PERCENTAGE OF ASSETS THAT SHALL BE HELD IN EACH CLASS OF INVESTMENT, THE AMOUNT OF FUNDS HELD IN ANY CASH POOL, THE AMOUNT OF FUNDS HELD IN FIXED ASSETS INVESTMENTS, THE AMOUNT OF FUNDS HELD IN EQUITY INVESTMENTS, THE PERCENTAGE AND DOLLAR VALUE OF ASSETS PLACED WITH OUTSIDE MANAGERS.”.

AMENDMENT NO. 10

On page 7, after line 28, insert:

“THE BOARD MUST REPORT NOT LESS THAN ANNUALLY TO THE BUDGET COMMITTEES OF THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1312 OF THE STATE GOVERNMENT ARTICLE, ON:

(1) THE STATUS OF THE INVESTMENT PROGRAM, INCLUDING INVESTMENT INCOME MATCHED TO PROJECTED ENROLLMENT COSTS UNDER THE EXISTING CONTRACT;

(2) 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;

(3) THE PERCENTAGE AND DOLLAR VALUE OF ASSETS PLACED WITH OUTSIDE MANAGERS;

(4) THE INCOME PRODUCED BY EACH CLASS OF INVESTMENT; AND

(5) THE INCOME PRODUCED BY EACH INVESTMENT MANAGER.

(Over)

18-1908.

(A) IN THIS SECTION, "FIDUCIARY" MEANS:

(1) A MEMBER OF THE MARYLAND HIGHER EDUCATION INVESTMENT PROGRAM BOARD; OR

(2) AN EMPLOYEE OF THE MARYLAND HIGHER EDUCATION INVESTMENT PROGRAM WHO EXERCISES ANY DISCRETIONARY AUTHORITY OR CONTROL OVER:

(I) THE MANAGEMENT OR ADMINISTRATION OF THE PROGRAM;

OR

(II) THE MANAGEMENT OR DISPOSITION OF THE ASSETS OF THE PROGRAM.

(B) A FIDUCIARY SHALL DISCHARGE THE FIDUCIARY'S DUTIES WITH RESPECT TO THE PROGRAM:

(1) SOLELY IN THE INTEREST OF THE PARTICIPANTS;

(2) FOR THE EXCLUSIVE PURPOSES OF PROVIDING BENEFITS TO THE PARTICIPANTS AND PROVIDING REASONABLE EXPENSES OF ADMINISTERING THE PROGRAM;

(3) WITH THE CARE, SKILL, PRUDENCE, AND DILIGENCE UNDER THE CIRCUMSTANCES THEN PREVAILING, THAT A PRUDENT PERSON ACTING IN A LIKE CAPACITY AND FAMILIAR WITH SUCH MATTERS WOULD USE IN THE CONDUCT OF AN ENTERPRISE OF A LIKE CHARACTER WITH LIKE AIMS; AND

(4) BY DIVERSIFYING THE INVESTMENTS OF THE PROGRAM SO AS TO MINIMIZE THE RISK OF LARGE LOSSES, UNLESS UNDER THE CIRCUMSTANCES IT IS

CLEARLY PRUDENT NOT TO DO SO;

(5) IN ACCORDANCE WITH THE LAWS GOVERNING THE PROGRAM; AND

(6) IN ACCORDANCE WITH THE DOCUMENTS AND INSTRUMENTS GOVERNING THE PROGRAM TO THE EXTENT THAT THE DOCUMENTS AND INSTRUMENTS ARE CONSISTENT WITH THIS SUBTITLE.

(C) IN EXERCISING AUTHORITY, CONTROL, OR DISCRETION WITH RESPECT TO THE PROGRAM, A FIDUCIARY MAY NOT:

(1) USE THE ASSETS OF THE PROGRAM FOR THE FIDUCIARY'S OWN INTEREST OR ACCOUNT;

(2) ACT IN A TRANSACTION INVOLVING THE PROGRAM ON BEHALF OF A PERSON, OR REPRESENT A PERSON, IF THE INTERESTS OF THE PERSON ARE ADVERSE TO THE INTERESTS OF THE PROGRAM OR THE INTEREST OF PARTICIPANTS;

(3) RECEIVE ANY CONSIDERATION FOR THE FIDUCIARY'S OWN ACCOUNT FROM A PERSON DEALING WITH THE PROGRAM IN CONNECTION WITH A TRANSACTION INVOLVING THE ASSETS OF THE PROGRAM; OR

(4) BECOME AN ENDORSER OR SURETY OR, IN ANY MANNER, AN OBLIGOR, FOR MONEY LENT TO OR BORROWED FROM THE BOARD.

18-1909."

AMENDMENT NO. 11

On page 9, after line 9, insert:

"(3) ATTENDS AN INSTITUTION OF HIGHER EDUCATION NOT IN THE STATE OF MARYLAND."

(Over)

AMENDMENT NO. 12

On page 5, in line 16 strike “BUDGET;” and substitute “BUDGET.”.

On page 6, in lines 25, 34, and 38, strike “(D)”, “(E)”, and “(F)”, respectively, and substitute “(E)”, “(F)”, and “(G)”, respectively.

On page 7, in lines 1, 4, 9, 13, 18, and 20, strike “(G)”, “(H)”, “(I)”, “(J)”, “(K)”, and “(L)”, respectively, and substitute “(H)”, “(I)”, “(J)”, “(K)”, “(L)”, and “(M)”, respectively.

On page 8, in line 33, strike “18-1908.” and substitute “18-1910.”.

On page 9, in lines 22, 25, 28, and 32, strike “18-1909.”, “18-1910.”, “18-1911.”, and “18-1912.”, respectively, and substitute “18-1911.”, “18-1912.”, “18-1913.”, and “18-1914.”, respectively.

On page 10, in lines 1 and 6, strike “18-1913.” and “18-1914.”, respectively, and substitute “18-1915.” and “18-1916.”, respectively.