

SENATE BILL 296

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1999 Regular Session
9lr0772
CF 9lr2119

By: **Senator Miller**

Introduced and read first time: February 4, 1999
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 18, 1999

CHAPTER _____

1 AN ACT concerning

2 **Public Institutions of Higher Education - Affiliated Foundations**

3 FOR the purpose of repealing a requirement that certain affiliated foundations
4 operate subject to policies adopted by the governing boards of public institutions
5 of higher education; authorizing the presidents of the University System of
6 Maryland constituent institutions to establish certain foundations under certain
7 circumstances; ~~requiring a certain report by a certain date; clarifying that a~~
8 certain affiliated foundation may not be considered an agency or
9 instrumentality of the State or unit of the Executive Branch; clarifying that a
10 financial obligation or liability of a certain affiliated foundation may not be
11 considered a debt or obligation of the State or the University System of
12 Maryland; and generally relating to public institutions of higher education.

13 BY repealing and reenacting, with amendments,
14 Article - Education
15 Section 15-104
16 Annotated Code of Maryland
17 (1997 Replacement Volume and 1998 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Education**

21 15-104.

22 (a) It is the public policy of the State that endowment funds of public
23 institutions of higher education and gifts, donations, bequests, private endowments,

1 and private grants received by public institutions of higher education or their
2 governing boards, including any income therefrom:

3 (1) Shall be used in accordance with the wishes of the donors; and

4 (2) May not be used as a substitute for State General Fund
5 appropriations.

6 (b) (1) The public institutions of higher education are encouraged to
7 promote private fundraising by strengthening institutional development activities
8 and by maintaining relationships with affiliated foundations.

9 (2) Affiliated foundations that are independently established for this
10 purpose shall [operate subject to policies adopted by the governing boards and] BE
11 approved for form and legal sufficiency by the Attorney General.

12 (3) THE PRESIDENTS OF THE UNIVERSITY SYSTEM OF MARYLAND
13 CONSTITUENT INSTITUTIONS MAY ESTABLISH CAMPUS-BASED FOUNDATIONS. EACH
14 FOUNDATION NEED NOT BE APPROVED BY THE BOARD OF REGENTS OF THE
15 UNIVERSITY SYSTEM OF MARYLAND BUT SHALL OPERATE SUBJECT TO POLICIES
16 ADOPTED BY THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND
17 IN CONSULTATION WITH THE PRESIDENTS OF THE UNIVERSITY SYSTEM OF
18 MARYLAND CONSTITUENT INSTITUTIONS.

19 (4) AN AFFILIATED FOUNDATION ESTABLISHED AND OPERATED UNDER
20 THIS SUBSECTION MAY NOT BE CONSIDERED AN AGENCY OR INSTRUMENTALITY OF
21 THE STATE OR A UNIT OF THE EXECUTIVE BRANCH FOR ANY PURPOSE.

22 (5) A FINANCIAL OBLIGATION OR LIABILITY OF AN AFFILIATED
23 FOUNDATION ESTABLISHED AND OPERATED UNDER THIS SUBSECTION MAY NOT BE
24 CONSIDERED A DEBT OR AN OBLIGATION OF THE STATE OR THE UNIVERSITY
25 SYSTEM OF MARYLAND.

26 [(3)] (4) (6) Sections 15-501 through 15-504 of the State Government
27 Article do not bar an official or employee of a public institution of higher education
28 from becoming a director, official, or employee of an independent foundation
29 organized to foster fundraising and provide related services for the benefit of the
30 institution.

31 [(4)] (5) (7) No funds shall be accepted from an affiliated foundation
32 by a public institution of postsecondary education unless the fiscal affairs of the
33 affiliated foundation are audited annually by an independent certified public
34 accountant.

35 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Board of Regents of~~
36 ~~the University System of Maryland in consultation with the presidents of the~~
37 ~~University System of Maryland constituent institutions shall report to the General~~
38 ~~Assembly on or before September 1, 1999, in accordance with Section 2-1246 of the~~
39 ~~State Government Article, on a plan to transfer to any foundation established under~~

1 ~~this Act the assets held on behalf of any University System of Maryland constituent~~
2 ~~institution.~~

3 SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect July 1, 1999.