

BY: Appropriations Committee

AMENDMENTS TO HOUSE BILL NO. 1634
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Institutions of” and substitute “Maryland”; in the same line, after “Education” insert “Commission”; in the same line, before “Academic” insert “Review of Duplicative”; in the same line, strike “and Funding - Parity”; strike beginning with “amending” in line 3 down through “funding” in line 23 and substitute “requiring the Maryland Higher Education Commission to make a certain determination concerning a program implemented after a certain date under certain circumstances; providing that certain decisions of the Commission concerning duplication of academic programs are subject to judicial review in the circuit court in accordance with certain rules; and generally relating to the review of duplicative academic programs”; in line 26, strike “10-101, 10-203, 11-105(h), and”; in the same line, after “11-206” insert “and 11-206.1”; and strike in their entirety lines 29 and 30.

On page 2, strike in their entirety lines 1 through 3, inclusive.

AMENDMENT NO. 2

On pages 2 through 6, strike in their entirety the lines beginning with line 7 on page 2 through line 6 on page 6, inclusive.

On page 6, strike in their entirety lines 21 and 22; in lines 23, 25, and 28, in each instance, strike the bracket; in line 23, strike “(II) 1.”; and in lines 25 and 28, strike “2.” and “3.”, respectively.

On page 7, strike in their entirety lines 25 through 35, inclusive.

On page 8, in lines 1 and 5, in each instance, strike the bracket; in line 1, strike “(4) (I)”; in the same line, strike “SHALL”; in line 5, strike “may” and substitute “:

(Over)

(I) MAY”;

in lines 5 and 10, in each instance, strike “(II)”;

strike beginning with “or” in line 6 down through “after” in line 7 and substitute “; AND”

(II) AFTER”;

and in line 8, after “education” insert “, SHALL MAKE A DETERMINATION CONCERNING A PROGRAM THAT IS IMPLEMENTED AFTER JULY 1, 2006”.

AMENDMENT NO. 3

On page 8, after line 32, insert:

“(6) A DECISION OF THE COMMISSION UNDER THIS SUBSECTION, BASED ON AN OBJECTION UNDER SUBSECTION (E)(4) OF THIS SECTION, IS SUBJECT TO JUDICIAL REVIEW IN THE CIRCUIT COURT IN ACCORDANCE WITH MARYLAND RULE 7-201 ET SEQ.”;

and in line 33, strike “(6)” and substitute “(7)”.

AMENDMENT NO. 4

On page 9, in lines 3 and 4, in each instance, strike the bracket; in line 4, strike “AND”; and strike in their entirety lines 5 through 35, inclusive.

AMENDMENT NO. 5

On page 10, strike in their entirety lines 1 through 6, inclusive, and substitute:

“11-206.1.

(a) In this section the following words have the meanings indicated.

(1) “Public institution of higher education” means:

(i) A public senior higher education institution; and

(ii) A community college.

(2) “Nonpublic institution of higher education” means a regionally accredited institution of higher education eligible for aid under § 17-103 of this title.

(b) (1) A president of a public institution of higher education may propose to establish a new program or abolish an existing program if the action:

(i) Is consistent with the institution's adopted mission statement under Subtitle 3 of this title; and

(ii) Can be implemented within the existing program resources of the institution.

(2) A president of a nonpublic institution of higher education may propose to establish a new program if the action:

(i) Is consistent with the mission statement published in the official catalog of the nonpublic institution; and

(ii) Can be implemented within the existing resources of the institution.

(3) The president of a public institution of higher education shall report any programs that are proposed to be established or abolished in accordance with paragraph (1) of this subsection to:

(i) The institution's governing board; and

(ii) The Maryland Higher Education Commission.

(4) The president of a nonpublic institution of higher education shall report any programs that are proposed to be established in accordance with paragraph (2) of this subsection to the Commission.

(5) Upon receipt of a proposed new program, the Commission shall notify all other institutions of higher education in the State.

- (c) The governing board of a public institution of higher education shall:
- (1) Review the actions taken under subsection (b) of this section;
 - (2) Ensure that any new program proposed to be established by a president:
 - (i) Is consistent with the institution's approved mission statement under Subtitle 3 of this title;
 - (ii) Meets a regional or statewide need consistent with the Maryland State Plan for Postsecondary Education;
 - (iii) Meets criteria for the quality of new programs, developed in consultation with the Commission; and
 - (iv) Can be implemented within the existing program resources of the institution, verified by a process established in consultation with the Commission.
- (d) The Board of Regents of the University System of Maryland shall approve the proposed new program within 60 days if the program meets the criteria in subsection (c)(2) of this section, subject to the provisions of subsections (e) and (f) of this section.
- (e) Within 30 days of receipt of a notice of an institution's intent to establish a new program in accordance with subsection (b) of this section, the Commission may file, or the institutions of higher education in the State may file with the Commission, an objection to implementation of a proposed program provided the objection is based on:
- (1) Inconsistency of the proposed program with the institution's approved mission for a public institution of higher education and the mission statement published in the official catalog of a nonpublic institution of higher education;
 - (2) Not meeting a regional or statewide need consistent with the Maryland State Plan for Postsecondary Education;
 - (3) Unreasonable program duplication which would cause demonstrable harm to another institution; or

(4) Violation of the State's equal educational opportunity obligations under State and federal law.

(f) (1) If an objection is filed under subsection (e) of this section by the Commission or an institution within 30 days of receipt of a notice of an institution's intent to establish a new program, the Commission shall immediately notify the institution's governing board and president.

(2) The Commission shall determine if an institution's objection is justified based on the criteria in subsection (e) of this section.

(3) An objection shall be accompanied by detailed information supporting the reasons for the objection.

(4) If the Commission determines that an objection is justified, the Commission shall negotiate with the institution's governing board and president to modify the proposed program in order to resolve the objection.

(5) If the objection cannot be resolved within 30 days of receipt of an objection, the Commission shall make a final determination on approval of the new program for a public institution of higher education or a final recommendation on implementation for a nonpublic institution of higher education.

(6) A DECISION OF THE COMMISSION UNDER THIS SUBSECTION, BASED ON AN OBJECTION UNDER SUBSECTION (E)(3) OF THIS SECTION, IS SUBJECT TO JUDICIAL REVIEW IN THE CIRCUIT COURT IN ACCORDANCE WITH MARYLAND RULE 7-201 ET SEQ.

(g) (1) The Commission shall:

(i) Identify programs established under subsection (b) of this section that are inconsistent with the State Plan for Higher Education; and

(Over)

(ii) Identify low productivity programs at public institutions of higher education.

(2) If the Commission identifies any programs that meet the criteria set forth in paragraph (1) of this subsection, the Commission shall notify the president of the institution.

(3) If the Commission notifies a president of an institution under paragraph (2) of this subsection, within 60 days the president of the institution shall provide to the Commission in writing:

(i) An action plan to abolish or modify the program; or

(ii) Justification for the continuation of the program.

(h) The Commission and the governing boards of the public institutions of higher education shall jointly develop a definition and accepted criteria for determining low productivity programs.

(i) The Commission shall:

(1) Monitor the program development and review process established under this section;

(2) Report annually to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on the nature and extent of any duplication or proliferation of programs; and

(3) Make available a copy of the report under paragraph (2) of this subsection to the public institutions of higher education and the nonpublic institutions of higher education.”;

and in line 7, strike “3.” and substitute “2.”.