
By: **Delegates Cane, Anderson, Bozman, Branch, Goodwin, Gordon, Jones,
Montgomery, Murray, Oaks, Paige, Patterson, Proctor, Pugh, Taylor,
and F. Turner**

Introduced and read first time: March 1, 2006
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Institutions of Higher Education - Academic Programs and Funding - Parity**

3 FOR the purpose of amending the Maryland Charter for Higher Education to require
4 certain funding policies to allocate certain resources in a certain manner to
5 certain similarly classified institutions of higher education; requiring the
6 Maryland Higher Education Commission to ensure that parity exists between
7 certain academic programs at certain institutions of higher education and that
8 certain programs receive equitable and comparable funding; requiring the
9 Commission to determine whether certain proposed academic programs meet
10 certain requirements; prohibiting the Commission from approving certain
11 duplicative academic programs; requiring the Commission to consider certain
12 programs unnecessarily and unreasonably duplicative if the program meets
13 certain criteria; requiring the Commission to review certain existing programs
14 at certain institutions for certain reasons; requiring the Commission to initiate
15 and conduct a review of certain programs if a certain request for a certain
16 determination is made by certain institutions; providing that certain decisions
17 of the Commission concerning duplication of existing academic programs is
18 subject to administrative appeal and judicial review; requiring the Commission
19 to contract with a consultant to conduct a comprehensive review of similarly
20 classified institutions of higher education in the State for certain purposes;
21 requiring the consultant to consider certain factors in the review required by
22 this Act; defining a certain term; and generally relating to institutions of higher
23 education and parity of academic programs and funding.

24 BY repealing and reenacting, with amendments,
25 Article - Education
26 Section 10-101, 10-203, 11-105(h), and 11-206
27 Annotated Code of Maryland
28 (2004 Replacement Volume and 2005 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article - Education

1 Section 11-105(a)
2 Annotated Code of Maryland
3 (2004 Replacement Volume and 2005 Supplement)

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

6 **Article - Education**

7 10-101.

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

9 (b) "Charter" means the Maryland Charter for Higher Education.

10 (c) "Commission" means the Maryland Higher Education Commission.

11 (d) "Governing board" means:

12 (1) The Board of Regents of the University System of Maryland;

13 (2) The Board of Regents of Morgan State University;

14 (3) The Board of Trustees of St. Mary's College of Maryland; and

15 (4) The Board of Trustees of Baltimore City Community College.

16 (e) "Governing body" means:

17 (1) A governing board;

18 (2) A board of trustees of a community college;

19 (3) The governing entity of nonpublic institutions of higher education; or

20 (4) The governing entity of a regional higher education center.

21 (f) "Institution of higher education" means an institution of postsecondary
22 education that generally limits enrollment to graduates of secondary schools, and
23 awards degrees at either the associate, baccalaureate, or graduate level.

24 (g) (1) "Institution of postsecondary education" means a school or other
25 institution that offers an educational program in the State for individuals who are at
26 least 16 years old and who have graduated from or left elementary or secondary
27 school.

28 (2) "Institution of postsecondary education" does not include:

29 (i) Any adult education, evening high school, or high school
30 equivalence program conducted by a public school system of the State; or

1 (ii) Any apprenticeship or on-the-job training program subject to
2 approval by the Apprenticeship and Training Council.

3 (h) "Private career school" means a privately owned and privately operated
4 institution of postsecondary education other than an institution of higher education
5 that furnishes or offers to furnish programs, whether or not requiring a payment of
6 tuition or fee, for the purpose of training, retraining, or upgrading individuals for
7 gainful employment as skilled or semiskilled workers or technicians in recognized
8 occupations or in new and emerging occupations.

9 (i) "Program" or "educational program" means an organized course of study
10 that leads to the award of a certificate, diploma, or degree.

11 (j) "Public senior higher education institution" means:

12 (1) The constituent institutions of the University System of Maryland;

13 (2) Morgan State University; and

14 (3) St. Mary's College of Maryland.

15 (k) "Regional higher education center" means a higher education facility in the
16 State that:

17 (1) Is operated by a public institution of higher education in the State or
18 a nonpublic institution of higher education operating under a charter granted by the
19 General Assembly and includes participation by two or more institutions of higher
20 education in the State;

21 (2) Consists of an array of program offerings from institutions of higher
22 education approved to operate in the State by the Commission or by an act of the
23 General Assembly that specifically satisfies the criteria set forth in § 10-212(b) of this
24 title;

25 (3) Offers multiple degree levels; and

26 (4) Is either approved by the Commission to operate in the State or is
27 established by statute.

28 (l) "Secretary" means the Secretary of Higher Education.

29 (M) "SIMILARLY CLASSIFIED INSTITUTIONS" MEANS INSTITUTIONS OF
30 HIGHER EDUCATION THAT SHARE A SIMILAR CLASSIFICATION UNDER THE
31 CARNEGIE CLASSIFICATION OF INSTITUTIONS OF HIGHER EDUCATION REPORT
32 PUBLISHED BY THE CARNEGIE FOUNDATION.

33 [(m)] (N) "State Plan for Higher Education" means the plan for postsecondary
34 education and research required to be developed by the Maryland Higher Education
35 Commission under § 11-105(b) of this article.

1 10-203.

2 (a) It is the goal of the State that public senior higher education institutions
3 be funded at 100 percent of funding guidelines developed by the Maryland Higher
4 Education Commission.

5 (b) Funding policies shall allocate State resources efficiently while providing
6 incentives for quality and institutional diversity.

7 (C) FUNDING POLICIES SHALL ALLOCATE STATE RESOURCES COMPARABLY
8 AND EQUITABLY TO SIMILARLY CLASSIFIED INSTITUTIONS OFFERING SIMILAR OR
9 DUPLICATE ACADEMIC PROGRAMS.

10 [(c)] (D) Funding proposals for public senior higher education institutions
11 shall include:

12 (1) Base funding in accordance with the role and mission of the
13 institution, as approved by the Maryland Higher Education Commission;

14 (2) Special initiative funding:

15 (i) For academic programs at historically African American
16 colleges and universities; and

17 (ii) For the reward of academic innovation and enhancement; and

18 (3) Capital funding to support construction, operation, and maintenance
19 of a physical plant that is consistent with each institution's mission.

20 [(d)] (E) (1) Funding proposals for regional higher education centers may
21 include:

22 (i) Ongoing operating support to provide access to affordable
23 postsecondary education in unserved and underserved areas of the State;

24 (ii) Incentive funding to promote collaboration among the
25 institutions of higher education and regional higher education centers; and

26 (iii) Capital funding to support construction, operation, and
27 maintenance of a physical plant consistent with the approved mission statement of
28 the center.

29 (2) Operating funds for each regional higher education center that is
30 administered by the University System of Maryland shall be included in the
31 appropriation of the system office as a separate line item in the Governor's operating
32 budget.

33 [(e)] (F) Student financial aid programs should be developed in order to
34 provide reasonable access to the appropriate academic programs for individuals who
35 exhibit financial need, who are educationally disadvantaged, or who exhibit special
36 merit.

1 11-105.

2 (a) In addition to any other powers granted and duties imposed by this title
3 and subject to any restrictions imposed by law, the Commission has the powers and
4 duties set forth in this section.

5 (h) The Commission:

6 (1) May secure, compile, and evaluate information on any matter within
7 its authority, in the format it requires, from any person, agency, regional higher
8 education center, or institution subject to its authority;

9 (2) May engage in research, data compilation, and publication of reports
10 concerning postsecondary education in the State;

11 (3) Through its representatives, may visit at any reasonable times and
12 make reasonable inspections of any institution of postsecondary education or regional
13 higher education center subject to its authority;

14 (4) In consultation with the segments of higher education, shall develop
15 guidelines to assess the adequacy of operating and capital funding based on
16 comparisons with institutions designated as peer institutions and other appropriate
17 factors; [and]

18 (5) (I) SHALL ENSURE THAT PARITY EXISTS BETWEEN DUPLICATE
19 ACADEMIC PROGRAMS THAT EXISTED ON OR BEFORE JULY 1, 2006 AT
20 GEOGRAPHICALLY PROXIMATE INSTITUTIONS AND THAT THE PROGRAMS RECEIVE
21 EQUITABLE AND COMPARABLE FUNDING; AND

22 (II) IN ASSESSING COMPARABILITY AND PARITY AS REQUIRED
23 UNDER ITEM (I) OF THIS PARAGRAPH, SHALL CONSIDER THE FOLLOWING CRITERIA:

24 1. AN INSTITUTION'S STUDENT-FACULTY RATIO AS IT
25 RELATES TO THE CARNEGIE CLASSIFICATION, MISSION, AND COMPOSITION OF THE
26 STUDENT BODY OF THE INSTITUTION;

27 2. THE DISTRIBUTION OF FINANCIAL AID CONSISTENT WITH
28 THE NEEDS OF THE STUDENT POPULATION SERVED BY THE INSTITUTION;

29 3. THE COMPOSITION AND QUALITY OF FACULTY AND STAFF
30 AT THE INSTITUTION;

31 4. THE QUALITY OF THE INSTITUTION'S FACILITIES, BOTH
32 DEDICATED AND NONDEDICATED;

33 5. THE QUALITY AND EXISTENCE OF AUXILIARY RESEARCH
34 CENTERS AND INSTITUTES;

35 6. THE AMOUNT OF OPERATIONAL FUNDING;

36 7. SCHOLARSHIPS AND FELLOWSHIPS; AND

1 8. ANY OTHER FACTORS THAT AID IN THE DETERMINATION
2 OF PROGRAM PARITY; AND

3 [(5)] (6) In consultation with the Department of Budget and
4 Management, annually shall make recommendations consistent with the Charter and
5 the plan under subsection (b) of this section on the appropriate level of funding for
6 higher education.

7 11-206.

8 (a) This section does not apply to:

9 (1) New programs proposed to be implemented by public and nonpublic
10 institutions of higher education using existing program resources in accordance with
11 § 11-206.1 of this subtitle; and

12 (2) Programs offered by institutions of higher education that operate in
13 the State without a certificate of approval in accordance with § 11-202(c)(2) or (3) of
14 this subtitle.

15 (b) (1) Prior to the proposed date of implementation, the governing body of
16 an institution of postsecondary education shall submit to the Commission each
17 proposal for:

18 (i) A new program; or

19 (ii) A substantial modification of an existing program.

20 (2) The Commission shall review each such proposal and:

21 (I) DETERMINE WHETHER THE PROPOSAL MEETS THE
22 REQUIREMENTS OF SUBSECTION (E) OF THIS SECTION; AND

23 [(i)] (II) 1. With respect to each public institution of
24 postsecondary education, either approve or disapprove the proposal;

25 [(ii)] 2. With respect to each nonpublic institution of higher
26 education, either recommend that the proposal be implemented or that the proposal
27 not be implemented; and

28 [(iii)] 3. With respect to a private career school, either approve or
29 disapprove the proposal.

30 (3) If the Commission fails to act within 60 days of the date of
31 submission of the completed proposal, the proposal shall be deemed approved.

32 (4) Except as provided in paragraph (3) of this subsection, a public
33 institution of postsecondary education and private career school may not implement a
34 proposal without the prior approval of the Commission.

1 (5) Except as provided in paragraph (3) of this subsection, and subject to
2 the provisions of § 17-105 of this article, a nonpublic institution of higher education
3 may implement a proposal that has not received a positive recommendation by the
4 Commission.

5 (6) (i) If the Commission disapproves a proposal, the Commission
6 shall provide to the governing body that submits the proposal a written explanation of
7 the reasons for the disapproval.

8 (ii) After revising a proposal to address the Commission's reasons
9 for disapproval, the governing body may submit the revised proposal to the
10 Commission for approval.

11 (c) (1) Prior to discontinuation, each institution of postsecondary education
12 that proposes to discontinue an existing program shall provide written notification to
13 the Commission specifying:

14 (i) The name of the program; and

15 (ii) The expected date of discontinuation.

16 (2) By rule or regulation, the Commission may require the payment by a
17 private career school of a refund to any student or enrollee who, because of the
18 discontinuation of an ongoing program, is unable to complete such program.

19 (d) The Commission shall review and make recommendations on programs in
20 nonpublic institutions of higher education that receive State funds.

21 (e) (1) In this subsection, "governing board" includes the board of trustees of
22 a community college.

23 (2) The Commission shall adopt regulations establishing standards for
24 determining whether 2 or more programs are unreasonably duplicative.

25 (3) (I) THE COMMISSION MAY NOT APPROVE A NEW ACADEMIC
26 PROGRAM THAT UNNECESSARILY AND UNREASONABLY DUPLICATES AN EXISTING
27 ACADEMIC PROGRAM.

28 (II) THE COMMISSION SHALL CONSIDER A PROPOSED PROGRAM
29 UNNECESSARILY AND UNREASONABLY DUPLICATIVE IF THE PROGRAM:

30 1. DUPLICATES A PROGRAM OF ANOTHER INSTITUTION OF
31 HIGHER EDUCATION LOCATED WITHIN 35 MILES OF THE INSTITUTION SEEKING
32 APPROVAL OF THE PROPOSED PROGRAM; AND

33 2. A. IS A BACCALAUREATE LEVEL PROGRAM THAT IS NOT
34 A BASIC LIBERAL ARTS AND SCIENCE FOUNDATION COURSE; OR

35 B. IS A GRADUATE LEVEL PROGRAM.

1 (9) the amount of funding required to support the student body's quality
2 of life on campus; and

3 (10) any other factors that the institutions or the consultant consider
4 necessary or helpful in determining the comparability of the institutions; and

5 (d) the consultant shall complete its review and submit its findings and
6 recommendations to the Commission on or before December 31, 2006.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 2006.