

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1222
Appropriations

(Delegate Madaleno)

Constitutional Amendment - Higher Education - System and Funding

This bill proposes to amend the Maryland Constitution to require the State to maintain a system of higher education that is broadly accessible to the people and dedicated to excellence. The proposed amendment requires the State to fund public institutions of higher education in an amount necessary to provide instruction that, in a condition of full efficiency, is as nearly free as possible to Maryland residents.

Fiscal Summary

State Effect: If the proposed constitutional amendment is approved by Maryland voters, general fund expenditures to support institutions of higher education could increase significantly and higher education tuition revenues could decrease significantly.

Local Effect: Local board of elections expenditures would increase minimally in FY 2007 to publicize the opportunity to vote on a constitutional amendment. Community college revenues from State aid could increase significantly if the constitutional amendment is approved by Maryland voters.

Small Business Effect: None.

Analysis

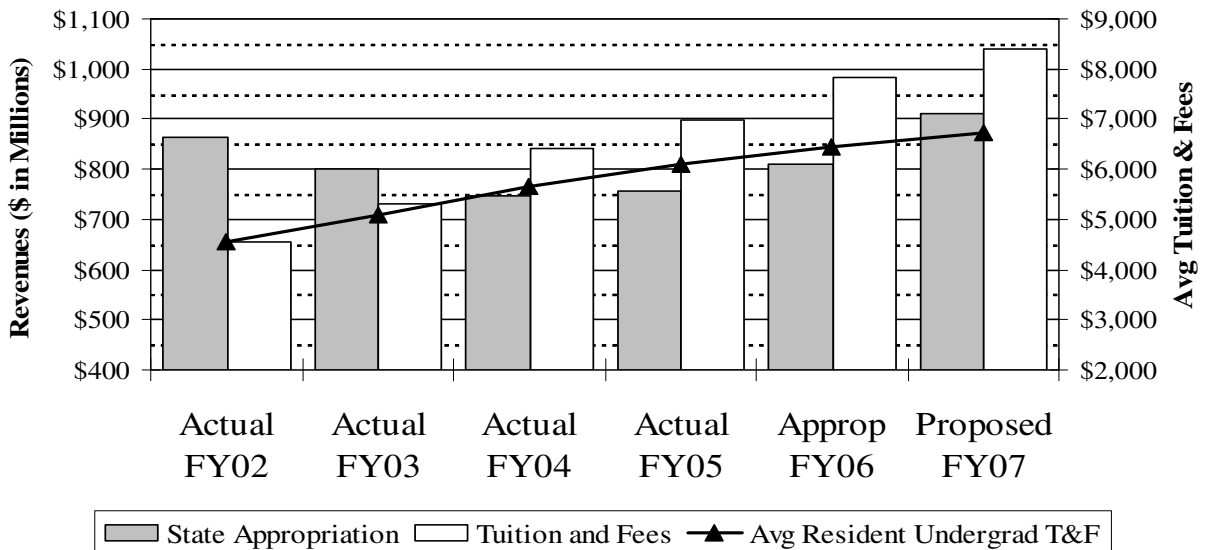
Current Law: Generally, funding for public institutions of higher education is as provided in the annual State budget. It is the intent of the General Assembly that, barring unforeseen economic conditions, the Governor include in the annual budget submission an amount of general fund State support for higher education equal to or greater than the amount appropriated in the prior fiscal year. The goal of the State, as provided in statute,

is that State support for higher education operating and capital expenditures comprise 15.5% of general fund revenues. The governing boards and presidents of institutions of higher education set tuition and fees for the institutions.

The Maryland Constitution contains no provisions specifically related to higher education.

Background: From fiscal 2002 to 2004, State funding for higher education declined, and public institutions of higher education responded with higher tuition and fees. Although it is only one piece of Maryland’s system of higher education, the University System of Maryland (USM) illustrates the trend in funding for public higher education in Maryland during that timeframe. As shown in **Exhibit 1**, USM’s tuition and fee revenues surpassed its State appropriation in fiscal 2004, and despite modest increases in State funding in fiscal 2005 and 2006, the difference between the two revenue sources has grown to nearly \$200 million in fiscal 2006. The proposed fiscal 2007 State budget, which includes a 12.5% increase in the State appropriation for USM, begins to close this gap but proposed tuition and fee revenues are still \$130 million higher than the State appropriation.

Exhibit 1
USM State Appropriations and Tuition and Fees
Fiscal 2002 to 2007



Source: *Maryland Operating Budget*, fiscal 2004 to 2007

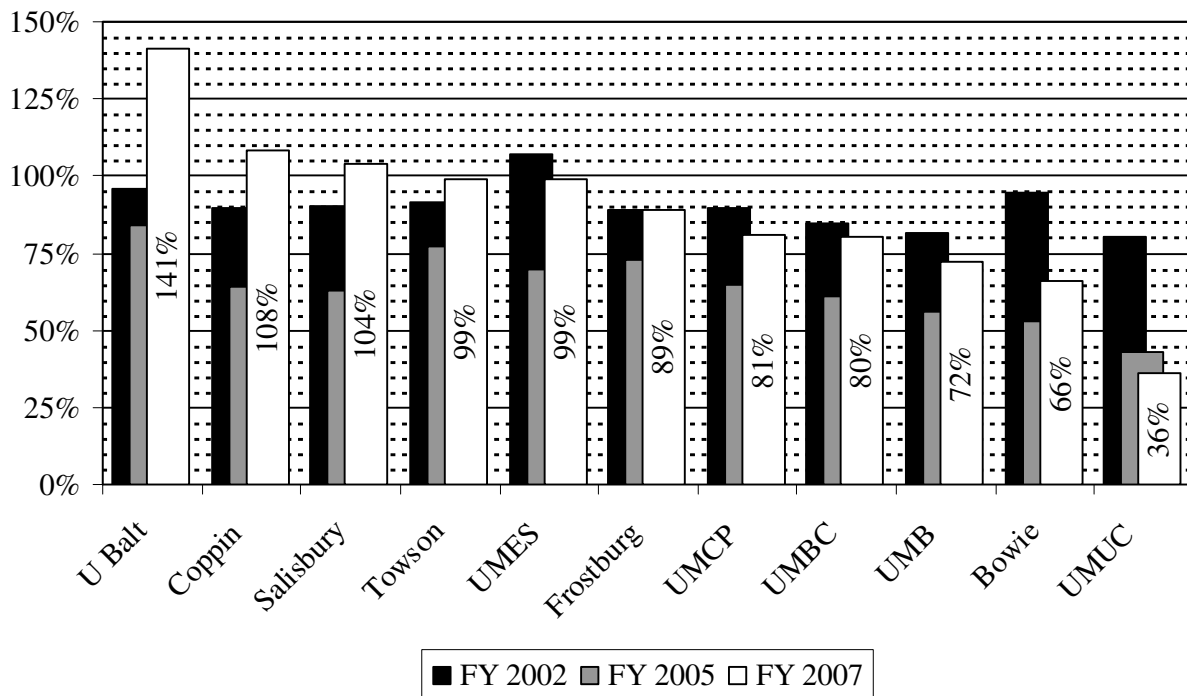
In total, USM revenues from State appropriations and tuition and fees combined is expected to increase by 28.2% from fiscal 2002 to 2007, an average annual increase of

HB 1222 / Page 2

5.1%. The rise is mostly due to significant growth in tuition and fee revenues. Based on the proposed fiscal 2007 budget, the State appropriation will be \$45 million higher in fiscal 2007 than in fiscal 2002, while tuition and fee revenues will be \$384 million higher. Exhibit 1 also shows the growth in the average tuition and mandatory fee rate for resident undergraduates at USM institutions. The average rate will increase by 47.9% over the five-year period, from \$4,560 in fall 2001 to \$6,744 in fall 2006, an average annual increase of 8.1%.

Funding guidelines attempt to calculate an appropriate level of general fund support for Maryland's public institutions of higher education using per student spending at identified peer institutions. The Maryland Higher Education Commission calculates the guidelines and, accounting for different tuition rates at the peer institutions, calculates a recommended State appropriation for each institution. **Exhibit 2** shows that estimated funding guideline attainment for fiscal 2007 is above fiscal 2002 attainment for four schools and below fiscal 2002 attainment for six. The fiscal 2007 projections suggest that every USM institution except the University of Maryland University College will be above its fiscal 2005 attainment level.

Exhibit 2
Funding Guideline Attainment for USM Institutions
Fiscal 2002 to 2007



Source: Maryland Higher Education Commission, January 2006

Every state constitution includes a requirement that a system of free public elementary and secondary schools be established and maintained. These requirements have often led to lawsuits alleging that states have under-funded school systems in violation of their constitutional responsibilities. Over the last 10 to 15 years, school finance litigation has focused on adequate funding, and many courts have ordered states to increase spending dramatically in order to adequately fund public schools.

The Maryland Constitution requires the State to establish a “thorough and efficient” system of free public schools and to provide for its maintenance by taxation or otherwise. Unlike many states, Maryland has not been required by a court to examine the adequacy of its funding for public elementary and secondary schools. However, the Commission on Education Finance, Equity, and Excellence conducted an analysis of adequacy and came to the conclusion that schools were under-funded by more than \$1.1 billion in fiscal 2002. As a result of the analysis and legislation enacted to address the additional school funding needs, Maryland will be spending an additional \$1.3 billion per year for its public elementary and secondary schools by fiscal 2008.

State Fiscal Effect: If the constitutional amendment is enacted, it would very likely lead to an increase in general fund expenditures for public institutions of higher education and a decrease in tuition revenues at the institutions. The fiscal impact would be determined by the interpretation of the amendment and the level of commitment to the amendment by the Governor and the General Assembly. It is also likely that the courts would be asked to interpret the amendment at some point, and a court could require the State to increase support for institutions in order to ensure that public higher education is nearly free for Maryland residents. The increase in expenditures cannot be reliably estimated but could be significant.

The Sellinger formula, which provides State funding for private colleges and universities, is based on funding for selected public institutions of higher education. If funding for the public institutions increases as a result of the constitutional amendment, State general fund support for private institutions would also increase.

Local Fiscal Effect: If the constitutional amendment is enacted, it would very likely lead to an increase in community college revenues from State aid. The increase cannot be reliably estimated but could be significant.

The Maryland Constitution requires that proposed amendments to the constitution be publicized either: (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the

fiscal 2007 budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2006 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: An identical bill was introduced last year as HB 1064. It received an unfavorable report from the House Appropriations Committee.

Cross File: None.

Information Source(s): Morgan State University, University System of Maryland, Maryland Higher Education Commission, Baltimore City Community College, Department of Legislative Services

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mll/rhh

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