

SENATE BILL 1084

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By: **Senator Conway**

Introduced and read first time: March 3, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Higher Education Commission – Review of Program Proposals**

3 FOR the purpose of requiring the Maryland Higher Education Commission to review
4 certain program proposals through certain processes, including certain
5 testimony and the weighing of evidence; requiring the Commission to adopt
6 certain regulations that provide for the receipt of certain comments and
7 objections under certain circumstances; altering certain circumstances under
8 which and certain deadlines by which the Commission must act on certain
9 program proposals before a proposal is deemed approved; requiring the
10 Commission to make certain determinations through certain processes,
11 including receiving certain testimony and the weighing of evidence; requiring
12 the Commission to adopt certain regulations; repealing a certain provision that
13 states that a certain decision is final and not subject to further appeal or review;
14 and generally relating to the review of program proposals by the Maryland
15 Higher Education Commission.

16 BY repealing and reenacting, with amendments,
17 Article – Education
18 Section 11–206(b) and (e)(2) and (6) and 11–206.1(f)
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2009 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Education
23 Section 11–206(e)(1) and 11–206.1(e)
24 Annotated Code of Maryland
25 (2008 Replacement Volume and 2009 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Education**

2 11–206.

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

6 (i) A new program; or

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

8 (2) The Commission shall review each such proposal **THROUGH A**
9 **DELIBERATIVE FACT-FINDING PROCESS, INCLUDING RECEIVING WITNESS**
10 **TESTIMONY AND THE WEIGHING OF EVIDENCE** and:

11 (i) With respect to each public institution of postsecondary
12 education, either approve or disapprove the proposal;

13 (ii) With respect to each nonpublic institution of higher
14 education, either recommend that the proposal be implemented or that the proposal
15 not be implemented; and

16 (iii) With respect to a private career school, either approve or
17 disapprove the proposal.

18 **(3) THE COMMISSION SHALL ADOPT REGULATIONS THAT**
19 **PROVIDE FOR THE RECEIPT OF COMMENTS AND OBJECTIONS FROM**
20 **APPROPRIATE PARTIES FOLLOWING SUBMISSION OF A COMPLETED PROPOSAL.**

21 **[(3)] (4)** If the Commission **DOES NOT RECEIVE ANY COMMENTS**
22 **OR OBJECTIONS TO THE COMPLETED PROPOSAL AND** fails to act within **[60] 90**
23 days of the date of submission of the completed proposal, the proposal shall be deemed
24 approved.

25 **[(4)] (5)** Except as provided in paragraph **[(3)] (4)** of this subsection,
26 a public institution of postsecondary education and private career school may not
27 implement a proposal without the prior approval of the Commission.

28 **[(5)] (6)** Except as provided in paragraph **[(3)] (4)** of this subsection,
29 and subject to the provisions of § 17–105 of this article, a nonpublic institution of
30 higher education may implement a proposal that has not received a positive
31 recommendation by the Commission.

32 **[(6)] (7)** (i) If the Commission disapproves a proposal, the
33 Commission shall provide to the governing body that submits the proposal a written
34 explanation of the reasons for the disapproval.

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

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

6 (2) The Commission shall adopt regulations [establishing] **THAT:**

7 **(I) REQUIRE A DELIBERATIVE FACT-FINDING PROCESS,**
8 **INCLUDING RECEIVING WITNESS TESTIMONY AND THE WEIGHING OF EVIDENCE;**
9 **AND**

10 **(II) ESTABLISH** standards for determining whether 2 or more
11 programs are unreasonably duplicative.

12 (6) (i) Prior to imposing a sanction under paragraph (5) of this
13 subsection, the Commission shall give notice of the proposed sanction to the governing
14 board of each affected institution.

15 (ii) 1. Within 20 days of receipt of the notice, any affected
16 institution may request an opportunity to meet with the Commission and present
17 objections.

18 2. If timely requested, the Commission shall provide
19 such opportunity prior to the Commission's decision to impose a sanction.

20 [(iii) The Commission's decision shall be final and is not subject
21 to further administrative appeal or judicial review.]

22 11-206.1.

23 (e) Within 30 days of receipt of a notice of an institution's intent to establish
24 a new program in accordance with subsection (b) of this section, the Commission may
25 file, or the institutions of higher education in the State may file with the Commission,
26 an objection to implementation of a proposed program provided the objection is based
27 on:

28 (1) Inconsistency of the proposed program with the institution's
29 approved mission for a public institution of higher education and the mission
30 statement published in the official catalog of a nonpublic institution of higher
31 education;

32 (2) Not meeting a regional or statewide need consistent with the
33 Maryland State Plan for Postsecondary Education;

1 (3) Unreasonable program duplication which would cause
2 demonstrable harm to another institution; or

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

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

9 (2) **[The] THROUGH A DELIBERATIVE FACT-FINDING PROCESS,**
10 **INCLUDING RECEIVING WITNESS TESTIMONY AND THE WEIGHING OF EVIDENCE,**
11 **THE** Commission shall determine if an institution's objection is justified based on the
12 criteria in subsection (e) of this section.

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

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

18 (5) If the objection cannot be resolved within **[30] 60** days of receipt of
19 an objection, the Commission shall make a final determination on approval of the new
20 program for a public institution of higher education or a final recommendation on
21 implementation for a nonpublic institution of higher education.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 2010.