

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 1244
 Appropriations

(Delegate Smith, *et al.*)

Education, Energy, and the Environment

Maryland Higher Education Commission - Academic Program Approval and Institutional Mission Statements - Requirements

This bill establishes a new process for academic program approval and institutional mission statements based on identifying State and regional workforce needs. To that end, the bill requires a comprehensive analysis of statewide workforce needs by designated agencies, integrates these needs into the State Plan for Higher Education, and establishes new review processes for academic programs to ensure alignment with workforce demands. The bill also incentivizes collaboration between institutions for program development and enhances the evaluation of mission statements to maintain distinctiveness among public higher education institutions. In addition, the Maryland Higher Education Commission (MHEC) must review existing programs, as specified, and establish a council and procedures guide related to the review process. Further, the bill establishes separate processes for the approval of graduate programs and requires MHEC to establish a separate process for online programs. Specified institutions have a 90-day lead to propose an emerging workforce need program at the graduate level. Finally, the bill establishes the Proposed Programs Collaborative Grant Fund. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: General fund expenditures increase by *at least* \$264,000 in FY 2025 for staff and one-time data set-up costs. Public four-year institutions of higher education and Baltimore City Community College (BCCC) revenues and expenditures may be affected by new program approval processes (not shown). To the extent the new fund is capitalized, general fund expenditures may be necessary, special fund revenues and expenditures increase, and any such costs for the institutions may be partially offset (not shown).

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	264,000	195,900	204,600	213,600	222,900
Net Effect	(\$264,000)	(\$195,900)	(\$204,600)	(\$213,600)	(\$222,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local community college revenues and expenditures may be affected by the new program approval process; however, the direction or magnitude cannot be determined. Any costs may be partially offset by special funds.

Small Business Effect: None.

Analysis

Bill Summary: Generally, the bill (1) requires the collection of State and regional workforce needs data; (2) sets new requirements for the State Plan for Higher Education, and requires the 2022 plan to be updated; (3) requires MHEC to establish a Program Review Process Advisory Council; (4) requires MHEC to establish regulations; (5) establishes requirements related to review hearings and requires MHEC to write a procedures guide; (6) requires MHEC to conduct an annual review of academic programs that were approved, as specified, to determine whether an historically Black college or university (HBCU) that objected to the program was harmed; (7) requires each institution to submit a letter of intent to MHEC that identifies each new *graduate* level program that an institution intends to propose for approval; (8) establishes the Proposed Programs Collaborative Grant Fund; (9) requires establishment of a new, separate process for approval for online-only programs offered to out-of-state students; (10) requires institutional mission statements to undergo more robust review and approval; and (11) requires MHEC to conduct a review of the academic program review process.

State and Regional Workforce Needs

The Maryland Department of Labor (MDL) and MHEC must each have a full-time staff member who (1) is responsible for defining, identifying, and compiling data on State and regional workforce needs and (2) works collaboratively with one another and the Department of Commerce to produce uniform and consistent baseline data, including common sources and measurements, about workforce needs to inform State policies relating to postsecondary education. Similarly, Commerce must (1) define, identify, and compile data on State and regional workforce needs and (2) work collaboratively with MDL and MHEC to produce uniform and consistent baseline data, including common sources and measurements, about workforce needs to inform State policies relating to postsecondary education.

State Plan for Higher Education

The bill clarifies, in developing the State Plan for Higher Education, that MHEC must incorporate the goal and priorities for higher education for all public institutions of higher education.

In addition to current requirements, the State Plan for Higher Education developed by MHEC must identify current and emerging State and regional workforce needs and any specific academic programs institutions could develop to fulfill, or support, identified current State and regional workforce needs and any emerging workforce need programs, as specified. In identifying State and regional workforce needs for the State Plan for Higher Education, MHEC must use uniform and consistent baseline data, as specified; consult with other agencies; use data from resources and literature relating to specific occupations; and provide all institutions of higher education in the State with access to this baseline data. MHEC must update the workforce needs identified in the most recent version of the State Plan for Higher Education each year as an appendix to the plan and post the update on its website. Beginning with the quadrennial review of the State Plan for Higher Education due by July 1, 2026, MHEC must submit the proposed plan to the Legislative Policy Committee (LPC) for review and comment before adoption by MHEC.

More immediately, by January 1, 2025, MHEC must update the State Plan for Higher Education last revised in 2022 to include updated information on State and regional workforce needs, emerging workforce needs, and any specific academic programs institutions could develop to fulfill, or support, identified needs. MHEC must submit the update to LPC for review and comment before adoption. During the process of updating the State plan, MHEC must provide postsecondary education stakeholders with an opportunity to provide input on State and regional workforce needs relevant to the purposes and objective of the plan.

Program Review Process Advisory Council

MHEC must establish a Program Review Process Advisory Council. The council must meet the current requirements for councils, including meeting periodically and making reports and recommendations to MHEC.

Duplicative Programs Regulations

The regulations adopted by MHEC establishing standards for determining whether two or more programs are unreasonably or unnecessarily duplicative must (1) clearly identify all specific criteria and factors used by MHEC to determine whether two or more programs are unreasonably or unnecessarily duplicative; (2) prioritize meeting State and regional workforce needs and preserving existing programs that are able to meet these workforce needs; and (3) prioritize collaboration between institutions of higher education.

Likewise, MHEC must adopt regulations on procedures for conducting an analysis of the objections to a proposed *graduate* program that:

- clearly identify all the specific criteria and factors used by MHEC; and

- specific to an objection of unreasonable program duplication which would cause demonstrable harm to another institution, use a set of baseline data and common sources that prioritize three elements: (1) meeting State and regional workforce needs; (2) preserving existing programs that are able to meet State and regional workforce needs; and (3) collaboration between institutions of higher education.

An objection for a *graduate* program must be based on one of the following reasons: (1) inconsistency with the institution's official mission; (2) not meeting a State or regional need in line with the State's higher education plan; (3) unreasonable program duplication which would cause harm to the State or students attending higher education institutions in the State; or (4) unnecessarily duplicating existing offerings in a way that breaches State and federal equal educational opportunity laws.

Furthermore, MHEC, in consultation with the Attorney General, must adopt regulations for standards for conducting an analysis of an objection based on unnecessary *graduate* program duplication in violation of the State's equal educational obligations under State and federal law.

Review Hearings and Procedures Guide

The bill establishes requirements for a review hearing of the Secretary of Higher Education's determination of an institution's objection to a *graduate* program approval, including that it be conducted in open session. By January 1, 2025, MHEC must develop and publish on its website an administrative procedures guide for MHEC's program review process. The guide must be updated at least once a year.

Review of Approved Academic Programs Subject to an Objection

By January 1, 2025, and each January 1 thereafter, MHEC must review each academic program that has been recently approved and each academic program that has been approved in the four immediately preceding school years that was subject to an objection of an HBCU to determine whether the HBCU, the State, or students attending institutions of higher education in the State suffered harm resulting from approval of the program.

By September 1, 2025, and each September 1 thereafter, MHEC must report its findings to the Senate Education, Energy, and the Environment Committee and the House Appropriations Committee.

Letters of Intent for Graduate Level Program Approval

Beginning January 1, 2025, MHEC must require each public senior higher education institution to submit a letter of intent to MHEC that identifies each new *graduate* level

program that an institution intends to propose for approval. MHEC must require each institution to submit a letter of intent every six months with all new graduate programs the institution intends to propose within the upcoming six-month to two-year time period. MHEC must use this letter to (1) facilitate collaboration between institutions and (2) provide feedback to an institution prior to submission of the new program for approval, as specified. MHEC may not use a letter to establish any preference or priority for approval of a program proposal. MHEC must establish requirements for submitting a letter. Except under specified conditions, MHEC may approve a program proposal only if the institution has included the program in a letter of intent. MHEC must circulate each letter of intent submitted by an institution among each institution but may not post an institution's letter of intent publicly.

Graduate Level Emerging Workforce Need Programs

An “emerging workforce need program” means a *graduate* level program identified by MHEC (in the State Plan for Higher Education or each annual update to the workforce needs as an appendix to the plan) that (1) no institution of higher education in the State offers; (2) addresses a job or industry need that is innovative, unique, and rare; and (3) could leverage federal, State, or private resources on a long-term basis with immediate development by an institution of higher education. “Emerging workforce need program” does not mean a specific academic program identified by MHEC to fulfill or support an identified *current* State and regional workforce need.

The bill establishes requirements related to approval of an emerging workforce need program, which apply after adoption of the required updated State plan due January 1, 2025. Generally, MHEC may approve a program proposal (as relates to a new program, a substantial modification to an existing program, or an online program) for an academic program for an emerging workforce need program only for Morgan State University (MSU), Bowie State University (BSU), the University of Maryland Eastern Shore (UMES), Coppin State University (CSU), and the University of Maryland, College Park Campus (UMCP). Further, within 90 days after the quadrennial review of the State plan and each annual update to it, each of those institutions must submit a notice of intent to submit a proposal in the upcoming year for an emerging workforce need program. MHEC must share the notice of intent to all segments of higher education, facilitate collaboration between institutions, provide feedback to the institution before it submits the new program for approval, and identify State resources to assist the institution in developing the program.

However, another institution may have a proposal approved under two specified circumstances. First, if none of the five specified institutions submits a notice of intent as required within the 90-day period, any institution of higher education in the State may immediately submit a proposal for an academic program for approval by MHEC. Second,

if one of the five specified institutions chooses to collaborate with any other institution of higher education in the State to implement an emerging workforce need program within the one-year period after its identification in the quadrennial State plan or an annual update to it, MHEC may approve a proposal for an academic program for the collaborating institution.

MHEC must adopt implementing regulations.

Proposed Programs Collaborative Grant Fund

The bill establishes a Proposed Programs Collaborative Grant Fund to provide financial assistance to incentivize institutions of higher education to collaborate with other institutions of higher education, at the discretion of each institution, to establish and implement a new graduate program.

MHEC must administer the fund, develop an application process to apply for a grant from the fund, and award grants to institutions as intended by the fund.

It is a special, nonlapsing fund that is not subject to the State Finance and Procurement Article.

The fund consists of money appropriated in the State budget to the fund, interest earnings, and any other money from any other source accepted for the benefit of the fund.

The fund may be used only for expenses incurred by an institution for collaborating or attempting to collaborate with other institutions to establish and implement a new graduate program identified in a letter of intent, including specified expenses.

Money expended from the fund for expenses incurred by institutions for collaborating or attempting to collaborate to establish and implement a new *graduate* program is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for the new program.

Online Program Approval

MHEC must develop and implement a program review process for new proposed programs that (1) are offered only online and to a majority of out-of-state students and (2) enable the institutions of higher education in Maryland to compete with out-of-state competitors in the online marketplace. The process developed and implemented must allow MHEC or an institution of higher education in the State to file with MHEC an objection to implementation of the proposed program, if the objection is based on any of the following: (1) inconsistency with the institution's official mission; (2) not meeting a need in line with

the State's higher education plan; (3) unreasonable program duplication of a fully online program, which would cause harm to the State or students attending higher education institutions in the State; or (4) unnecessary duplication by a fully online program of existing offerings in a way that breaches State and federal equal educational opportunity laws. MHEC must include the program review process in the administrative procedures guide.

Mission Statement

In addition to current requirements, MHEC must develop detailed criteria for the robust review of mission statements of public institutions of higher education, including ensuring the mission of each institution is reflective of the institution's statutory distinction and clearly defined and distinct from other public institutions.

MHEC may reject the mission statement, after conducting a review, but must do so within 90 days of receipt; otherwise, the mission statement is deemed to be approved (unless MHEC finds the mission statement to be inconsistent with the State plan).

After approving or rejecting a mission statement of a public institution of higher education, MHEC must submit a report to specified committees that includes an analysis explaining (1) the role of the public institution of higher education within the system of higher education in the State to ensure the mission statement is clearly defined and distinct from other public institutions of higher education and (2) why the mission statement was approved or rejected. MHEC is encouraged to use that report to ensure the State is supporting each public institution of higher education in meeting the needs described in the mission statements.

Academic Program Review Evaluation

MHEC must examine the approval process for conducting academic program reviews (as modified under the bill), including all statutory and regulatory requirements regarding administrative procedures, timelines, and deadlines, to determine whether the process, in whole or in part, needs updating or revision to meet the needs of the institutions of higher education and students. By December 1, 2024, MHEC must report its findings and recommendations to the General Assembly.

MHEC, in collaboration with all institutions of higher education, must evaluate whether the existing standard that triggers the academic program review process for substantial modification to an existing program in statute and regulations, as specified, is the appropriate standard. If, after the evaluation, MHEC determines that a new standard for establishing a substantial modification to an existing program is appropriate, MHEC must, on or before January 1, 2025, adopt regulations establishing the new standard.

Current Law:

Consultant Study of Policies and Practices

Chapters 41 and 42 of 2021 required the Department of Legislative Services (DLS) to contract with a consultant to study the capacity and capability of MHEC to carry out its current policies and practices and any new policies or practices established for the purpose of (1) evaluating, streamlining, improving, and making recommendations on such policies and practices with respect to academic program review; (2) enhancing the economic competitiveness of the State by ensuring the responsiveness of institutions of higher education to market demand; and (3) effectively supporting the State's workforce development requirements. A final [report](#) was due by September 1, 2022.

Department of Commerce

Among other duties, Commerce must facilitate regular meetings among its regional experts, financial incentive team, and tourism development team to determine the success in meeting overall economic development strategic goals and in addressing the economic development needs of each region. Commerce must also work with community colleges to enhance their role in providing workforce training services, including industry-specific education and training in response to the needs of the State.

Processes for Implementing New Academic Programs

There are two processes for implementing new academic programs at institutions of higher education: one for new programs that can be implemented with existing resources; and another for new programs that will require additional resources. The processes are overseen by MHEC, and MHEC's determinations about program approval are not subject to judicial review or administrative appeal.

Institutions of higher education seeking to implement new programs with new resources must submit proposals for the new programs to MHEC, and MHEC must approve or disapprove the programs or, in the case of private nonprofit and for-profit institutions of higher education, recommend that the programs be implemented or not implemented. If MHEC fails to act within 60 days of the date of submission of a completed proposal, the proposal is automatically deemed approved.

When a public or private nonprofit institution of higher education determines that it can implement a new program with existing resources, the president of the institution must submit the proposal to the institution's governing board and to MHEC, and MHEC must distribute the proposal to other institutions. MHEC or another institution may file an objection to the proposal based on (1) inconsistency with the mission of the institution

proposing the program; (2) a lack of need for the program; (3) unreasonable program duplication that could cause harm to another institution; or (4) violation of the State's equal educational opportunity obligations (known as unnecessary program duplication). Based on those factors, MHEC must determine if an institution's objection is justified. If MHEC determines that an objection is justified, it must negotiate with the institution's governing board and president to modify the proposal. If the objection cannot be resolved within 30 days of receipt of an objection, MHEC must make a final determination about the approval of the proposed program for a public institution of higher education or a final recommendation on implementation for a private nonprofit institution of higher education.

Maryland Higher Education Commission – Program Evaluation Unit

Chapters 41 and 42 required MHEC to establish a program evaluation unit, to evaluate new programs and substantial modifications, with at least 10 staff members. The unit established must assist MHEC in reviewing and evaluating proposals for new academic programs and substantial modifications of existing academic programs in accordance with law. The Governor must include in the annual operating budget an amount sufficient to employ the 10 staff members.

State Plan for Postsecondary Education

MHEC is charged with producing a statewide plan every four years that clearly outlines the priorities and major goals for the State's postsecondary system. The [2022 Maryland State Plan for Higher Education](#) fulfills this charge.

Mission Statements

The president of each institution of higher education must develop a mission statement, which is then submitted to the governing board for review and potential revision every four years, following the quadrennial review of the State Plan for Higher Education. The governing board has the authority to adopt the mission statement with or without amendments and must submit it to MHEC for further consideration. Regional higher education centers follow a similar process, developing their mission statements, submitting them to the governing body, and ultimately to MHEC for approval. Additionally, the Chancellor of the University System of Maryland (USM) reviews mission statements for constituent institutions before they are considered by the Board of Regents to ensure consistency with the system's plan and efficient resource utilization.

MHEC must review a mission statement to determine whether it is consistent with the State Plan for Higher Education. The mission statement is deemed approved within 30 days of receipt unless MHEC finds the statement is not consistent with the State plan.

State Expenditures:

State Agencies

MHEC advises that many requirements of the bill can be met using existing resources; however, coordination among MHEC, MDL, and Commerce requires additional staff for two agencies. Specifically, MHEC advises that an additional analyst and director are required; however, given the 10-person program evaluation unit required by current law, DLS advises that one analyst is likely sufficient. Likewise, MDL advises additional staff is required as current staff is fully subscribed with other duties and largely funded with federal monies that would preclude them from absorbing the duties under the bill. Commerce advises that, as it already has staff whose responsibilities could encompass the requirements under the bill, no additional staff is required.

Furthermore, in identifying State and regional workforce needs, MHEC must consult, as necessary, with the Maryland Longitudinal Data System (MLDS) Center, among other entities. The MLDS Center advises that, to provide better information, it must incorporate additional data on workforce needs and labor market projections into its system to create comprehensive workforce needs projections. The MLDS Center estimates one-time implementation costs of \$100,000 to \$200,000 in fiscal 2025, with further analysis to be conducted using existing resources.

Accordingly, general fund expenditures increase by \$164,039 in fiscal 2025 for MHEC and MDL to each hire an analyst to conduct the required research of State and regional workforce needs and meet the bill's requirement for each of them to have one full-time staff member dedicated to such duties. This estimate accounts for a 90-day start-up delay. Additionally, MLDS costs increase by *at least* \$100,000 in fiscal 2025 for one-time set-up costs. The estimate reflects the costs of hiring two researchers, one each for MHEC and MDL, to identify State and regional workforce needs and coordinate with the appropriate agencies. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$149,527
MLDS One-time Costs	100,000
Other Operating Expenses	<u>14,512</u>
General Fund Expenditures in FY 2025	\$264,039

Future year expenditures reflect full salaries with annual increases and employee turnover, elimination of one-time costs, as well as annual increases in ongoing operating expenses.

Proposed Programs Collaborative Grant Fund

The bill establishes the Proposed Programs Collaborative Grant Fund to incentivize institutions of higher education to collaborate with other institutions of higher education, at the discretion of each institution, to establish and implement a new graduate program. MHEC can likely administer the fund using existing resources. The fund may be used only for expenses incurred by an institution for collaborating or attempting to collaborate with other institutions to establish and implement a new graduate program, including those specified. Capitalization of the fund – both source and amount – is not specified in the bill; absent another source of funding, a general fund appropriation is likely needed for this purpose. To the extent funds are provided, general fund expenditures and corresponding special fund revenues and expenditures increase. The amount of funds required is unknown as it depends on the potential collaborations. However, expenditures related to collaboration could exceed \$250,000 annually if all costs were covered by the fund.

Public Institutions of Higher Education

Public four-year institutions of higher education (USM constituent institutions, MSU, and St. Mary's College of Maryland (SMCM)), BCCC, and local community college revenues and expenditures may be affected by the changes to the program approval processes. While the direction and magnitude of any impact cannot be reliably estimated, it is assumed that a collaborative program approval process based on State and regional needs ultimately benefits all institutions of higher education.

Allowing MSU, BSU, CSU, UMES, UMCP to have a 90-day lead to submit a proposal for an academic program for an emerging workforce need program at the graduate level may affect institutional revenues and expenditures; however, the impact on the specified institutions as well as other institutions cannot be reliably estimated. Nevertheless, it is assumed that the intent is to increase revenues and enrollment for the selected institutions. For reference, under the current process, between January 1, 2023, and December 1, 2023, MHEC received 143 new program approval submissions. Ten program approval submissions received an objection. Seven objections were resolved without a hearing by the commission. Three program approval reviews, after an objection, received a hearing.

Any additional costs associated with collaborating with other institutions may be partially offset by funds from the Proposed Programs Collaborative Grant Fund established by the bill. However, it is unknown whether and to what extent special funds will be available or provided for these purposes.

Public four-year institutions of higher education can submit a letter of intent for *graduate* programs every six months using existing resources. However, UMCP advises that an

additional staff member is required; MSU and SMCM advise that the bill's requirements can be met using existing resources.

Additional Comments: The bill reflects many of the [draft recommendations](#) made by the Program Approval Process Workgroup that met four times in 2023.

This analysis reflects the conference committee amendments adopted by both the House and Senate; however, according to [Maryland Matters](#), those amendments do not accurately reflect intended provisions related to graduate level emerging workforce needs programs.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 1022 (Senators King and Watson) - Education, Energy, and the Environment.

Information Source(s): Department of Commerce; Maryland Longitudinal Data System Center; Office of the Attorney General; Maryland Higher Education Commission; Baltimore City Community College; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Maryland Department of Labor; *Maryland Matters*; Department of Legislative Services

Fiscal Note History: rh/ljm
First Reader - February 26, 2024
Third Reader - March 27, 2024
Revised - Amendment(s) - March 27, 2024
Revised - Updated Information - March 27, 2024
Enrolled - May 7, 2024
Revised - Amendment(s) - May 7, 2024
Revised - Other - May 7, 2024

Analysis by: Caroline L. Boice

Direct Inquiries to:

(410) 946-5510

(301) 970-5510