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SENATE EDUCATION, ENERGY, and the ENVIRONMENT COMMITTEE
House Bill 1179
University System of Maryland - Affiliated Foundations
April 4, 2023
Favorable

Chair Feldman, Vice Chair Kagan and members of the committee, thank you for the opportunity to testify on House Bill 1179. The bill would amend the section of the Education Article addressing affiliated foundations at the University System of Maryland (USM) to clarify that, under certain circumstances, university employees may, in accordance with the Maryland Public Ethics Law, serve as directors, officials, or employees of an affiliated foundation that is “organized to accept research grants for the benefit of the institution.”

Current law encourages public higher education institutions to “promote private fundraising by strengthening institutional development activities and by maintaining relationships with affiliated foundations.”

The USM Board of Regents has established a policy that governs approval and operation of all affiliated foundations. That policy requires the foundation to enter into an agreement with the Board of Regents formalizing the Board’s recognition of the foundation and limiting the scope of the foundation’s activities to those that are outside the normal scope of the institution’s operations.

The policy also requires the affiliated institution to develop a conflict of interest management plan for each university employee who performs operational duties for the foundation so that all parties interacting with the foundation understand the role and capacity of the university employee.

There are currently nine foundations that have a primary mission of accepting funds to benefit their affiliated campuses. (An additional seven support particular units or functions, such as athletics or specific schools). They support activities such as annual and major gift fundraising, advancement services, donor stewardship, and funds administration and management. Eight USM campuses report benefiting from the ability to use an affiliated foundation to accept certain grants; in aggregate, the value of these grants can range from \$3 to nearly \$12 million on an annual basis.

Maryland law permits university officials or employees to serve as a director, official, or employee of a foundation “organized to foster fundraising and provide related services for the benefit of the institution” without fear of running afoul of certain restrictions under the Maryland Public Ethics Law. Without such legal protection, the Ethics Law would prohibit such service as a conflict of interest.

House Bill 1179 would clarify current law by unequivocally extending that provision to foundations “organized to accept research grants for the benefit of the institution if (1) the foundation is a tax-exempt organization under section 501(c) (3) of the IRS code and (2) the university has determined that it cannot directly accept the research grant because of conditions required by the grantor.” Without such legal clarification, there is a concern that foundations that currently accept research grants would need to cease doing so, to the detriment of the universities.

For these reasons, we urge a favorable report for House Bill 1179.



About the University System of Maryland

The University System of Maryland (USM)—one system made up of 12 institutions, three regional centers, and a central office—awards 8 out of every 10 bachelor’s degrees in the State of Maryland. The USM is governed by a Board of Regents, comprised of 21 members from diverse professional and personal backgrounds. The chancellor, Dr. Jay Perman, oversees and manages the operations of USM. However, each constituent institution is run by its own president who has authority over that university. Each of USM’s 12 institutions has a distinct and unique approach to the mission of educating students and promoting the economic, intellectual, and cultural growth of its surrounding community. These institutions are located throughout the state, from western Maryland to the Eastern Shore, with the flagship campus in the Washington suburbs. The USM includes Historically Black Institutions, comprehensive institutions, research universities, and the country’s largest public online institution.

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HB1179 Delegate Forbes Senate Testimony.pdf

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Testimony in Support of HB 1179
University System of Maryland – Affiliated Foundations
Testimony of Delegate Cathi Forbes
Education, Energy, and the Environment
April 4, 2023

What this bill does

This bill is necessary to allow the University System of Maryland (USM) affiliated foundations and their employees, to continue to accept and administer certain grants. Without this legislation the USM has determined that allowing USM employees who work for foundations that accept grants may put them at risk of violations of ethics laws.

Why this bill is necessary

This policy will allow affiliated foundations to accept certain grants, primarily to benefit faculty research. These grants are only accepted by foundations when the university cannot accept them, usually because the grant must go to a 501(c)3 entity, or because of certain other conditions that the university cannot accept.

- There are very clear rules and processes between a university and its affiliated foundations to ensure that affiliated foundations accept these grants only when all other avenues have been exhausted.
- System foundations accept several million dollars a year in these grants funds, a very small percentage of the total research dollars granted across the System, but still very important to faculty – often young faculty – seeking support for their research.
- For years, many affiliated foundations have taken on the risk and administrative burden of accepting those grants, so that research funds are available for faculty.

Why you should vote for this bill

This legislation will allow foundations to accept grants while ensuring that foundation employees are protected and in compliance with our ethics laws. Most importantly, we want to ensure that every legitimate revenue source is available to the faculty across our system for research. In previous years these grants accepted through the foundations have accounted for between \$3 million and \$11 million of additional research funding for our institutions.

HB 1179 passed the House Environment and Transportation Committee, 22-0 and the full House, unanimously, 135-0.

I ask for a favorable report.

Thank you.