

Department of Legislative Services
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FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 983

(Senator McCray)

Education, Energy, and the Environment

Appropriations

Higher Education - Academic Program Approval - Objections Process Alteration
and Study

This bill allows, during a one-year period, the Maryland Higher Education Commission (MHEC) or any institution of higher education in the State to file an objection against implementing any proposed new academic program at a public or private nonprofit institution of higher education that will be implemented using existing resources. Under current law, objections are limited to *graduate* programs to be implemented using existing resources. The objection process is the same as under current law for graduate programs. The bill also requires the Program Review Process Advisory Council, within MHEC, to study and submit a report by December 31, 2026, on its findings and recommendations regarding extending the objection process to include new undergraduate programs. **The bill takes effect July 1, 2026, and terminates June 30, 2027.**

Fiscal Summary

State Effect: The council within MHEC can submit the required report on extending the objection process to new undergraduate programs using existing resources. Regarding undergraduate programs that go through the program approval process in FY 2027, public four-year institutions of higher education and Baltimore City Community College (BCCC) revenues and expenditures may be affected by allowing objections to be filed against any proposed new academic program at a public or private nonprofit institution of higher education that will be implemented using existing resources. However, the direction or magnitude cannot be determined.

Local Effect: Regarding undergraduate programs that go through the program approval process in FY 2027, local community college revenues and expenditures may be affected by allowing objections to be filed against any proposed new academic program at a public or private nonprofit institution of higher education that will be implemented using existing resources. However, the direction or magnitude cannot be determined.

Small Business Effect: None.

Analysis

Bill Summary: As under current law for *graduate* programs, any objection must be filed within 30 days of the notice of intent and based on at least one of four established criteria:

- inconsistency with the institution’s approved mission;
- lack of need to meet a regional or statewide need;
- unreasonable program duplication that causes harm to the State or students; or
- unnecessary program duplication that violates equal educational opportunity obligations under State and federal law.

Specifically, the council must study and make recommendations on extending the objection process for proposed academic programs to include new undergraduate programs proposed by a public institution of higher education or a private nonprofit institution of higher education with consideration of relevant federal and State precedence regarding unnecessary program duplication.

Current Law:

Definitions Related to Institutions of Higher Education

“Institution of higher education” is defined as an institution of postsecondary education that generally limits enrollment to graduates of secondary schools and awards degrees at either the associate, baccalaureate, or graduate level. It includes public, private nonprofit, and for-profit institutions. “Public institution of higher education” means a public senior higher education institution or community college. The public senior higher education institutions in Maryland are the constituent institutions of the University System of Maryland (USM) and the University of Maryland Center for Environmental Science, Morgan State University, and St. Mary’s College of Maryland.

Program Approval Process for Institutions of Higher Education

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.

Additional Resources: 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.

Existing Resources: 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 (for public institutions) and to MHEC, and MHEC must distribute the proposal to other institutions.

For public institutions, the governing board must review the proposal to ensure it meets quality criteria, meets a regional or statewide need, meets criteria for the quality of new programs, and can be verified as using existing resources. Then, the Board of Regents of USM must approve the proposed new program within 60 days if the program meets those criteria.

Existing Resources Graduate Program Objection Process: MHEC or another institution may file an objection to a proposed new graduate program that is to be implemented with existing resources based on (1) inconsistency with the mission of the proposing institution; (2) lack of need for the program; (3) unreasonable program duplication that could harm the State or students attending institutions in the State; or (4) violation of the State's equal educational opportunity obligations (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 *graduate* program for a public institution of higher education or a final recommendation on implementation for a private nonprofit institution of higher education.

Graduate Programs Letters of Intent

To foster collaboration, MHEC requires public four-year and private nonprofit institutions to submit a "letter of intent" every six months identifying each new *graduate-level* program they intend to propose within the upcoming six-month to two-year period. MHEC uses these letters to provide feedback and flag concerns about unreasonable duplication before a formal proposal is submitted. Generally, MHEC may only approve a graduate program if it was previously included in a letter of intent, barring specific exigent circumstances.

Fully Online Programs

MHEC is required to develop and implement a specific program review process for proposed programs that are offered exclusively online to a majority of out-of-state students. This process is designed to allow Maryland institutions to compete in the online marketplace while still permitting objections based on mission inconsistency, lack of need, or unreasonable/unnecessary program duplication.

Maryland Higher Education Commission Program Evaluation Unit

To handle these reviews, MHEC is required by law to maintain a dedicated program evaluation unit consisting of at least 10 staff members whose specific purpose is to assist MHEC in reviewing and evaluating proposals for new programs and substantial modifications.

Unreasonable Program Duplication

“Unreasonable program duplication” is defined as the duplication of an academic program (including a fully online program), which would cause harm to the State or students attending institutions of higher education in the State. This is distinct from “unnecessary program duplication,” which specifically refers to duplication that violates the State’s equal educational opportunity obligations under State and federal law. According to regulations, when analyzing and determining if unreasonable duplication exists, the proposing institution must submit for the Secretary of Higher Education to consider (1) the degree to be awarded and area of specialization; (2) the specific academic content, purposes, or objectives of the program; (3) evidence of equivalent competencies of the proposed program compared to existing programs; and (4) an analysis of the market demand for the program. The Secretary’s analysis must also include an examination of (1) institutional role and mission; (2) accessibility and alternative means of educational delivery (including distance education); (3) analysis of enrollment characteristics; (4) residency and admission requirements; and (5) the educational justification for the dual operation of programs that are broadly similar to unique or high-demand programs at Maryland’s historically Black colleges and universities.

Program Review Process Advisory Council

Chapter 963 of 2024 required MHEC to establish a Program Review Process Advisory Council. The council must meet periodically for the purpose of reviewing such matters as are referred by MHEC or the Secretary of Higher Education for their consideration and advice.

State/Local Fiscal Effect: The bill takes effect July 1, 2026, and terminates June 30, 2027. Thus, any impact on the objection process is limited to that one-year period (fiscal 2027), which limits the overall fiscal impact of the bill. Nevertheless, successful objections during that period could have longer-term impacts.

MHEC advises that the existing Program Review Process Advisory Council within MHEC can produce the required report on extending the objection process for proposed academic programs to include new undergraduate programs proposed by a public institution of higher education or a private nonprofit institution of higher education with consideration of relevant federal and State legal precedence regarding unnecessary program duplication by December 31, 2026, using existing resources.

Expanding for one year – July 1, 2026, through June 30, 2027 (fiscal 2027) – the objection process to include proposed new academic programs at public or private nonprofit institutions of higher education that are implemented using existing resources may affect the number and types of programs approved or recommended by MHEC. Allowing objections for undergraduate, associate’s, or other nongraduate programs may result in additional review, negotiation, or modification of proposed programs and could delay or alter the implementation of certain programs. Public four-year institutions, and community colleges (including BCCC). Any resulting changes could affect institutional enrollment patterns, program offerings, and associated revenues and expenditures. However, the direction or magnitude of any such impact cannot be reliably estimated. *For illustrative purposes*, using the simple average, in-state tuition and fees proposed for fiscal 2027 are approximately \$11,200; therefore, a change in enrollment at a particular institution of 30 full-time students could increase or decrease tuition and fees by approximately \$336,000.

The objection process itself can be implemented by institutions of higher education and MHEC using existing resources; however, the volume of objection cases and related administrative responsibilities may increase. Additional objections may require more review, analysis, and coordination among MHEC, institutional governing boards, and affected institutions.

Additional Comments: Nonprofit institutions of higher education are also impacted by the bill. However, in their case, MHEC can only recommend or not recommend a program.

Additional Information

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

Designated Cross File: HB 1628 (Delegate Wells) - Appropriations.

Information Source(s): Maryland Higher Education Commission; University System of Maryland; Morgan State University; Department of Legislative Services

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Analysis by: Caroline L. Boice

Direct Inquiries to:
(410) 946-5510
(301) 970-5510