

SPECIAL AUTHORIZATION FOR FUTURE CAPITAL FEE INCREASES

The 2006 Regular Legislative Session featured important developments relating to the authority of the governing board to increase enrollment fees. House Bill 4049 was revised extensively during the Session as legislative leaders grappled with higher education financing policies. On final passage on the final day of the Legislative Session, the Bill contained extensive revisions relating to publicly funded scholarships such as PROMISE and also contained important provisions pertaining to fee increases.

On the latter point, the critical language is as follows:

(8) Notwithstanding the provisions of subdivisions (1) and (4) of this subsection, tuition and fee increases at state institutions of higher education which are under the jurisdiction of the commission, including the state institutions of higher education known as Marshall University and West Virginia University, are subject to the following conditions:

(A) Institutions may increase tuition and fees for resident, undergraduate students by no more than an average of seven and one-half percent per year during any period covering four consecutive fiscal years, with the first fiscal year of the first four-fiscal year cycle beginning on the first day of July, two thousand seven;

(B) The seven and one-half percent average cap does not apply to an institution for any fiscal year in which the total state base operating budget appropriations to that institution are less than the total state base operating budget appropriations in the fiscal year immediately preceding;

(C) A new capital fee or an increase in an existing capital fee is excluded from the tuition and fee increase calculation in this subdivision:

(i) If the new fee or fee increase is approved by an institutional governing board or by a referendum of an institution's undergraduate students, or both, on or before the first day of February, two thousand six; or

(ii) If the following conditions are met:

(I) The new fee or fee increase was approved by an institutional governing board or by a referendum of an institution's undergraduate students, or both, on or before the first day of July, two thousand six;

(II) The institution for which the capital fee is approved has been designated a university pursuant to the

provisions of section six, article two-a of this chapter by the effective date of this section; and

(III) The institutional board of governors previously oversaw a community and technical college that achieved independent accreditation and consequently acquired its own board of governors;

(D) Institutions shall provide, in a timely manner, any data on tuition and fee increases requested by the staff of the commission. The commission has the power and the duty to:

(i) Collect such data from any institution under its jurisdiction; and

(ii) Annually by the first day of July, provide a detailed analysis of the institutions' compliance with the provisions of this subdivision to the Legislative Oversight Commission on Education Accountability.

The annual statutory cap of 9.5% per year for resident students remains in effect. These additional provisions require that the four-year averages of enrollment fee increases for residents not exceed 7.5% per year, beginning with fees rates as of July 1, 2007. However, new WV Code §18B-10-1(1)(8)(c) creates an important exception to the 7.5% four-year-average cap.

Shepherd University meets the criteria of §18B-10-1(1)(8)(c)(ii), §§(ii) and (iii). Therefore, if the institutional governing board approves a capital fee increase prior to July 1, 2006, that fee increase is not included in the four-year-average cap established in the new legislation.

The resident student enrollment fee rate for 2006-07 will be \$2174 per semester. A 2% increase on that amount would be \$43. Such an increase would be reflected in either the existing Institutional Capital Fees or in a new Auxiliary Capital Fee, or both.

To maintain the maximum degree of flexibility for the future, the following resolution would approve, but not require, capital fee increases of up to 2% per year, beginning for Fall 2007 and additionally for Fall 2008, Fall 2009, and Fall 2010. The President would be authorized to implement the capital fee increases on a discretionary basis, with notice to the Board and following approval by the HEPC, when necessary.

The following resolution is recommended for adoption by the Board:

RESOLVED, That the Shepherd University Board of Governors authorizes the President of the University, at the President's discretion, to implement increases in capital fees charged to all students in an amount of up to 2% of the 2006-07 total enrollment fee rate, effective for Fall 2007. The President is authorized to implement additional capital fee increases, respectively, for Fall 2008, 2009, and 2010, in an amount not more than 2% of the prior year's rate. The President is further authorized to allocate these increases between Institutional Capital Fees and any new Auxiliary Capital Fees on a discretionary basis.