SB 637

Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 637 (Senators Brooks and Hettleman)

Education, Energy, and the Environment

Higher Education - Undocumented Students - Out-of-State Tuition Exemption Eligibility

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This bill reduces the number of years (from three to one) for which an individual or an individual's parent or guardian must file a Maryland income tax return prior to the academic year in order to qualify for an exemption from paying the out-of-state tuition rate under the Maryland Dream Act. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: General fund expenditures may increase minimally to the extent the number of full-time equivalent students (FTES) who qualify for in-state tuition at a community college, including Baltimore City Community College (BCCC) increases. Further, tuition revenues at public institutions of higher education, including BCCC, may be affected, as explained below.

Local Effect: Overall, any impact on local community colleges is likely minimal. However, State aid for local community colleges may increase, and local community college tuition revenue may be affected, as explained below.

Small Business Effect: None.

Analysis

Current Law:

Dream Act Overview

Chapter 191 of 2011, known as the Dream Act, was petitioned to referendum and approved by Maryland voters in November 2012. Under the Dream Act, an individual who attended a Maryland high school for at least three years and graduated from a Maryland high school or received the equivalent of a high school diploma in the State may pay the same tuition rates that resident students pay. Chapters 1 and 7 of 2020 expanded the circumstances under which an individual is exempt from paying the out-of-state rate.

Dream Act – Out-of-state Tuition

To qualify for the exemption from paying out-of-sate tuition, a student must:

- have attended a public or nonpublic secondary (high) school in the State;
- have graduated from a public or nonpublic high school in the State or received the equivalent of a high school diploma (*e.g.*, a GED) in the State;
- register as an entering student in a public institution of higher education in the State no later than six years after graduating from high school or receiving the equivalent qualification in the State; and
- provide to the public institution of higher education documentation that the individual or the individual's parent or guardian has filed a Maryland income tax return annually for the three-year period before the academic year in which the tuition rate would apply. (Only this provision is changed under the bill.)

The Dream Act also requires a student who qualifies for an exemption and is not a permanent resident to provide an affidavit stating that the student will file an application to become a permanent resident within 30 days after becoming eligible to do so. In addition, a student who qualifies for an exemption and is required to register with the Selective Service System must provide documentation of the required registration.

Students qualifying under the Dream Act for tuition rates equivalent to the resident tuition rates at four-year institutions may not be counted as in-state students for the purposes of determining the number of Maryland undergraduates enrolled at the institutions.

Dream Act – In-county Rate for Community Colleges

An individual who qualifies for an out-of-state exemption under the Dream Act also qualifies for in-county tuition at a community college if the individual attends a community college supported by the county in which (1) an address in the county is used on the Maryland income tax return of the individual's or the individual's parent or guardian of the calendar year prior to the academic year in which the rate would apply; (2) the high school from which the individual graduated is located; or (3) for an individual who received the equivalent of a high school diploma, the high school most recently attended by the individual is located.

Dream Act – Retaining Eligibility

To retain eligibility, an individual must use an address in the State on the Maryland income tax return of the individual or the individual's parent or legal guardian annually until the individual is awarded a degree from the public institution of higher education.

Senator John A. Cade and Baltimore City Community College Funding Formulas

The formula used for the distribution of funds to community colleges is known as the Senator John A. Cade Funding Formula. The State's annual contribution to the Cade funding formula is determined by enrollment at community colleges and a percentage, set in statute, of the level of funding received by selected public four-year institutions. Specifically, the formula bases per student funding on a set statutory percentage of current year State appropriations per FTES at the selected four-year institutions, including noncapital appropriations from the Higher Education Investment Fund. The resulting community college per student amount is multiplied by the number of FTES enrolled in the colleges in the second preceding fiscal year to identify a total formula amount.

The BCCC funding formula operates in the same fashion. The BCCC percentage, which is also set in statute, is higher than that for the Cade funding formula, resulting in a higher per FTES amount.

The Cade and BCCC funding formulas have a hold harmless provision in current law that ensures each college receives at least as much State funding in total through the formula as in the prior fiscal year.

In-state Tuition

Using the simple average, in-state tuition and fees proposed for fall 2024 are approximately $10,600. The difference between in-state and out-of-state for fall 2024 tuition ranges from more than $29,400 for the University of Maryland, College Park Campus (UMCP) to $4,800 at the University of Maryland Global Campus (UMGC). The difference between the rates at each campus, using the simple average, is almost $14,000.

For fall 2023 in-county tuition and fees are approximately $4,900. As a State institution, BCCC has one in-state rate. Generally out-of-state rates at community colleges are two to three times the in-county rates.

State Fiscal Effect: Overall, any impact is likely minimal, as it is assumed that the number of students who qualify under the bill does not significantly increase from current law. The bill reduces the number of years (from three to one) for which a Maryland income tax return must be filed in order for an individual to qualify for an exemption from paying the out-of-state tuition rate under the Maryland Dream Act. To qualify for an out-of-state tuition waiver, an individual must continue to meet all other current eligibility requirements, including graduating from a Maryland high school.

General Fund Expenditures for Community College Funding Formulas

General fund expenditures do not increase immediately for any new enrollments in community colleges. Instead, for each additional FTES who qualifies for and attends a local community college in the 2024-2025 academic year, general fund expenditures under the Cade funding formula increase by approximately $6,000 in fiscal 2027. Likewise, for each additional FTES who qualifies for and attends BCCC in the 2024-2025 academic year, general fund expenditures could increase by approximately $14,200 in fiscal 2027. Out-year expenditures depend on the number of additional FTESs who qualify due to the bill and the actual per FTES amounts for the Cade and BCCC funding formulas.

Baltimore City Community College

As explained above, State aid for BCCC, through its funding formula, may increase minimally, due to additional FTESs qualifying as a result of the bill. However, as BCCC has been receiving hold harmless grants under its formula for several years, there is likely no impact on general fund expenditures until fiscal 2030 at the earliest. Also, tuition revenues may increase or decrease minimally beginning in fiscal 2025, depending on the balance of existing students who now qualify for an out-of-state tuition waiver and new students who now qualify for an out-of-state tuition waiver.

Public Four-year Institutions

Tuition revenues at public institutions of higher education are likely not materially affected. Public four-year institutions have considerable autonomy over admissions and generally maintain fairly stable proportions of in-state and out-of-state students. The bill does not affect that autonomy. Therefore, despite the differences in tuition levels for in-state and out-of-state students, tuition revenues at most institutions are not materially affected. As long as there are no major adjustments to the proportion of students who qualify for in-state tuition, institutions can adjust admissions to avoid any significant loss of tuition revenue. The fiscal impact of this bill is a potential loss of tuition and fee revenues equal to the difference between in-state and out-of-state tuition and fees for each eligible student who enrolls at a University System of Maryland institution, Morgan State University (MSU), or St. Mary’s College of Maryland. In fiscal 2023, the public four-year institutions reported a loss of approximately $1.2 million in tuition revenues due to enrolling Dream Act students.

At most public four-year institutions except UMGC, out-of-state students make up no more than 20% of undergraduates, so the impact of the bill is not significant. There may be a minimal impact at campuses with out-of-state enrollment of 20% or more – specifically, the University of Maryland, Baltimore Campus, UMCP, University of Maryland Eastern Shore, UMGC, and MSU. For these institutions, tuition revenues may decrease if the institutions choose to admit a significant number of eligible students who did not previously qualify for in-state tuition. However, to the extent these students would not have otherwise enrolled because they could not afford or would have chosen not to pay out-of-state tuition, or the institutions increase enrollment overall, the impact may be minimal.

Local Fiscal Effect: State aid for local community colleges, through the Cade funding formula, may increase minimally due to additional FTES qualifying under the bill, as explained above. Tuition revenues may increase or decrease minimally beginning in fiscal 2025, depending on the balance of existing students who now qualify for an out-of-state (or out-of-county) tuition waiver and new students who now qualify for such a tuition waiver. In total, community colleges reported a loss of approximately $911,100 in tuition revenues during fiscal 2023 due to the students affected by Maryland's Dream Act.

Additional Information

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

Designated Cross File: HB 473 (Delegate Pasteur, *et al.*) - Appropriations.

Information Source(s): Comptroller's Office; Maryland State Department of Education; Maryland Higher Education Commission; University System of Maryland; St. Mary's College of Maryland; Department of Legislative Services

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