

Department of Legislative Services
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FISCAL AND POLICY NOTE
Revised

Senate Bill 520

(Senators Britt and Grosfeld)

Education, Health, and Environmental Affairs

Ways and Means

Higher Education - Resident Tuition Charges - Immigrant Students

This bill exempts an individual other than a nonimmigrant alien from paying nonresident tuition at a public institution of higher education in the State if the individual: (1) attended a secondary school in Maryland for at least three years; (2) graduated from a high school in the State or received the equivalent of a high school diploma in the State; (3) registers as an entering student at the institution no earlier than the 2003 fall semester; (4) provides an affidavit stating that the individual will file for permanent residency within 30 days after becoming eligible to do so; and (5) makes application to the institution not later than five years after graduating from high school or receiving the equivalent of a high school diploma. An institution may not award a degree to a student who qualifies for resident tuition charges under the bill until the student files the required affidavit or pays the difference between nonresident and resident tuition charges.

The bill is effective July 1, 2003.

Fiscal Summary

State Effect: Tuition revenues at public institutions of higher education could increase minimally beginning in FY 2004 due to a potential increase in the number of students accepted at some institutions. General fund expenditures for the Senator John A. Cade funding formula could increase beginning in FY 2006 due to increased community college enrollments.

Local Effect: Community college revenues from State aid could increase beginning in FY 2006. Net community college tuition revenues would not be affected.

Small Business Effect: Minimal.

Analysis

Current Law: The University System of Maryland (USM) Board of Regents sets tuition policies, including the determination of who is considered a Maryland resident and therefore qualified to pay in-state tuition.

Background: Laws aimed at allowing undocumented immigrants to pay in-state tuition rates at public institutions of higher education have been enacted within the last two years in California, New York, Texas, and Utah. In addition, bills with similar intentions have been introduced in at least eight other states. The first laws addressing the issue, both enacted in 2001, were passed in California and Texas. Similar to this bill, the California law requires an individual to have lived in the State for three years while attending a State high school to qualify for in-state tuition. The Texas law requires three years of residency in the State and graduation from a Texas high school to qualify.

Public elementary and secondary schools are required by federal law to accept undocumented immigrants, and students are accepted at institutions of higher education regardless of their residency statuses. However, a federal immigration law passed in 1996 prohibits undocumented immigrants from obtaining a postsecondary education benefit that U.S. citizens cannot obtain, including in-state tuition rates. Both Texas and California struggled with concerns about conflicts with the federal law but were able to craft legislation that based eligibility on where a student went to high school, not residency status.

The differences between in-state and out-of-state undergraduate tuition rates at Maryland's four-year public institutions of higher education are shown in **Exhibit 1**. Fiscal 2002 in-county, out-of-county, and out-of-state tuition rates for community colleges are shown in **Exhibit 2**.

Exhibit 1
Annual Tuition Rates for Full-time Undergraduate Students
Based on Spring 2003 Rates

	<u>In-state</u>	<u>Out-of-state</u>	<u>Difference</u>
USM Institutions			
Bowie	\$3,258	\$9,995	\$6,737
Coppin State	2,877	8,286	5,409
Frostburg	3,814	9,910	6,096
Salisbury	3,564	9,498	5,934
Towson	3,994	11,714	7,720
Univ. of Baltimore	4,082	13,291	9,209
UM - Balt County	4,844	11,338	6,494
UM - College Park	4,800	14,002	9,202
UM - Eastern Shore	3,181	7,945	4,764
Other Four-year Public Institutions			
Morgan State	\$3,220	\$9,640	\$6,420
St. Mary's College	6,925	12,260	5,335

Exhibit 2
Annual Tuition Rates at Community Colleges in Maryland
Fiscal 2002 Rates

College	<u>In-county</u>	<u>Out-of-county</u>	<u>Out-of-state</u>
Allegany	\$2,550	\$5,010	\$5,580
Anne Arundel	1,800	3,450	6,120
Baltimore City	1,800	1,800	4,500
Baltimore County	2,040	3,630	5,280
Carroll	2,250	3,840	5,850
Cecil	1,950	4,650	6,000
Chesapeake	1,950	2,820	3,870
Southern MD	2,250	4,380	5,790
Frederick	2,220	4,800	6,660
Garrett	2,280	4,320	5,610
Hagerstown	2,220	3,570	4,680
Harford	1,950	3,900	5,850
Howard	2,430	5,340	6,690
Montgomery	2,220	4,590	6,000
Prince George's	2,250	4,200	6,660
Wor-Wic	1,770	4,410	5,190

State Fiscal Effect: Although the bill allows more students to qualify for in-state tuition rates, tuition revenues at public institutions of higher education in Maryland would not decrease. This assessment is based on the following information.

- The expanded definition of in-state student would not affect students currently enrolled in public institutions of higher education. These students would continue to pay out-of-state tuition rates. The bill only affects students entering institutions in fall 2003 or later.
- Institutions of higher education would retain control over their existing admissions processes. Public institutions accept relatively stable proportions of in-state students from one year to the next, and this practice would not be altered by the bill. The pool of eligible in-state applicants would increase somewhat, but institutions would not be required to accept a greater percentage of in-state students.

For institutions that are trying to attract additional students, the bill could result in an increase in tuition revenues beginning in fiscal 2004. Under current law, the high cost of out-of-state tuition may discourage some individuals from applying to Maryland colleges and universities. To the extent that expanding the pool of candidates who qualify for in-state tuition increases the number of eligible applicants, tuition revenues could increase for institutions that are trying to boost their enrollments.

State aid to community colleges could also be affected by the legislation. The Senator John A. Cade funding formula determines aid to community colleges based on full-time equivalent (FTE) student enrollment counts from the second prior fiscal year. Under current law, out-of-state students are not included in FTE enrollment counts. Under the bill, however, community colleges would report qualifying students in their FTE student counts beginning in fiscal 2004. This would result in increased State aid to community colleges beginning in fiscal 2006. Aid per pupil under the Cade formula is estimated at \$2,113 in fiscal 2006, \$2,144 in fiscal 2007, and \$2,176 in fiscal 2008. It is not known how many community college students would qualify for in-county tuition as a result of this legislation.

Local Fiscal Effect: Unlike public institutions of higher education, community colleges accept all applicants. Therefore, the colleges could incur a reduction in tuition revenues beginning in fiscal 2004 because more students would be eligible for in-state tuition rates under the bill. The difference between in-county and out-of-state community college tuition rates averaged approximately \$4,500 in fiscal 2002. Like the four-year institutions, community colleges could also realize an increase in tuition revenues if

lower tuition rates encourage more students to apply to the colleges. It is assumed that these competing effects would result in a negligible net impact on community college tuition revenues.

Beginning in fiscal 2006, community colleges would receive additional State aid under the Senator John A. Cade funding formula for each additional in-state student who attends a college. Formula aid per FTE student is estimated at \$2,113 in fiscal 2006, \$2,144 in fiscal 2007, and \$2,176 in fiscal 2008.

Additional Information

Prior Introductions: A similar bill was introduced in 2002 as HB 426. The bill passed in the House with amendments that would have limited its application to community colleges. The bill was not reported out of the Senate Education, Health, and Environmental Affairs Committee.

Cross File: HB 253 (Delegate Hixson, *et al.*) – Ways and Means.

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

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