

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 40 (Senator Harris, *et al.*)
Education, Health, and Environmental Affairs

Higher Education - Prohibition on Illegal Aliens from Receiving In-State Tuition Status

This bill prohibits public institutions of higher education from classifying an individual as a resident for purposes of tuition remission if the individual cannot provide the institution with documentation certifying that the individual is lawfully present in the U.S. The governing board of each public institution of higher education must adopt policies to implement the bill.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: Higher education administrative costs could increase beginning in FY 2009 to verify the lawful residency of every student paying an in-state tuition rate. Higher education tuition revenues could increase or decrease beginning in FY 2009, assuming a small number of students are unable to provide documentation of lawful residency.

Local Effect: Community college administrative costs could increase beginning in FY 2009 to verify the lawful residency of students paying in-county and in-state tuition rates. Tuition revenues at the colleges could increase or decrease beginning in FY 2009.

Small Business Effect: None.

Analysis

Current Law: The Board of Regents for the University System of Maryland sets tuition policies for USM institutions, including the determination of which students are eligible for resident tuition. USM policies require individuals to have the legal ability under federal and Maryland law to live permanently in Maryland in order to qualify for in-state tuition rates. In general, these individuals qualify for in-state tuition when they can document that they have lived continuously in Maryland for at least 12 consecutive months.

The Board of Regents of Morgan State University and the Board of Trustees of St. Mary's College of Maryland set tuition policies for their institutions. The policies for the institutions are very similar to the USM policy. Both institutions require one year of legal residency in Maryland to qualify for in-state tuition rates.

Tuition policies at community colleges are set by State regulations and the boards of trustees for the colleges. There are three levels of tuition at community colleges: in-county, out-of-county, and out-of-state. In general, there is a three-month residency requirement for community colleges.

Background: Federal immigration law prohibits undocumented immigrants from obtaining a postsecondary education benefit that U.S. citizens cannot obtain. Despite the federal prohibition, laws that allow undocumented immigrants to pay in-state tuition rates at public institutions of higher education have been enacted in California, Illinois, Kansas, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah, and Washington. The Maryland General Assembly passed a bill in 2003 that would have extended in-state tuition benefits to some immigrant students not lawfully present in the U.S., but the bill was vetoed by the Governor. To get around federal laws, states that have passed in-state tuition benefits for undocumented immigrants have crafted legislation that bases eligibility for resident tuition on where a student went to high school, not immigration status. Although federal legislation that would clarify immigration laws and allow states to offer resident tuition rates to undocumented immigrants has been introduced, the measure has continuously stalled in Congress.

In November 2006, Arizona voters passed Proposition 300, a measure that, among other provisions, requires Arizona's public institutions of higher education to solicit documentation of legal residency from students being charged in-state tuition rates. A January 2008 article in *The Chronicle of Higher Education* reported that the law resulted in the reclassification of 207 Arizona State University students and 119 University of Arizona students from in-state to out-of-state status. In both cases, the reclassified students represented less than 0.5% of the resident student populations at the schools.

Proposed fall 2008 in-state and out-of-state tuition and fee rates for full-time undergraduates at the State's four-year public institutions are shown in **Exhibit 1**. The differences between the rates average nearly \$10,000. Fall 2007 in-county, out-of-county, and out-of-state tuition rates for community colleges are shown in **Exhibit 2**. The exhibits show that out-of-state rates at community colleges are generally two to three times the in-county tuition rates.

Exhibit 1
In-state and Out-of-state Tuition and Mandatory Fees
Proposed Fall 2008 Rates

	<u>In-state</u>	<u>Out-of-state</u>	<u>Difference</u>
USM Institutions			
Coppin State University	\$5,140	\$13,365	\$8,225
UM Eastern Shore	6,042	12,830	6,788
Bowie State University	6,005	16,226	10,221
Salisbury University	6,442	14,744	8,302
Frostburg State University	6,614	16,810	10,196
Towson University	7,314	17,860	10,546
University of Baltimore	7,054	20,559	13,505
UM College Park	8,005	23,076	15,071
UM Baltimore County	8,780	17,512	8,732
UM University College*	5,760	12,000	6,240
Other Public Four-year Institutions			
Morgan State University	6,420	14,871	8,451
St. Mary's College	12,604	23,454	10,850

*Based on 24 credit hours.

Exhibit 2
In-county, Out-of-county, and Out-of-state Tuition and Fees at Community Colleges
Based on 30 Credit Hours Per Year
Fall 2007

<u>College</u>	<u>In-county</u>	<u>Out-of-county</u>	<u>Out-of-state</u>
Allegany	\$3,074	\$5,534	\$6,434
Anne Arundel	2,860	5,230	9,040
Baltimore City	2,750	2,750	5,450
Baltimore County	3,056	5,576	7,436
Carroll	3,240	4,476	6,788
Cecil	2,940	5,630	6,980
Chesapeake	3,094	5,164	7,474
College of Southern MD	3,102	5,904	7,524
Frederick	3,028	6,178	8,278
Garrett	2,970	6,180	7,260
Hagerstown	3,120	4,770	6,180
Harford	2,541	4,851	7,161
Howard	3,993	6,483	7,833
Montgomery	3,876	7,512	9,996
Prince George's	3,710	5,990	8,630
Wor-Wic	2,404	5,884	6,716

Source: Maryland Association of Community Colleges

State Revenues: Requiring students to provide documentation of lawful U.S. residency could reveal a small number of students who are unable to provide the necessary verification. Higher education tuition revenues would increase for each student who is unable to confirm lawful residency and decides to stay in college and pay out-of-state tuition rates; however, tuition revenues would decrease for each student who is unable to confirm lawful residency and drops out of college due to inability or unwillingness to pay the higher out-of-state rates. In total, the net impact on tuition revenues is expected to be minimal.

State Expenditures: Administrative costs for State institutions of higher education could increase to document the lawful status of college applicants and more than 100,000 current resident students. It is assumed, however, that the checks would be done to the extent possible in the process of normal communications with students in order to minimize any increase in higher education expenditures.

Local Fiscal Effect: Like the State institutions of higher education, local community colleges would be required to solicit verification of lawful U.S. residency of students not paying out-of-state tuition rates. The required residency checks would increase community college administrative costs and could have a minimal net impact on tuition revenues at the colleges.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Higher Education Commission, Morgan State University, Baltimore City Community College, Charles County, Frederick County, Prince George's County, Somerset County, Department of Legislative Services

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