HB 1534

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1534 (Chair, Appropriations Committee) (By Request – Departmental – College Savings Plans of Maryland)

Appropriations Budget and Taxation

College Savings Plans of Maryland

This departmental bill authorizes the establishment of a Maryland Broker-Dealer College Investment Plan by the College Savings Plans of Maryland Board. The purpose of the broker-dealer plan is to provide for a college savings plan distributed by brokers and dealers that allows Maryland taxpayers to deduct contributions to the plan from their taxable income for purposes of State and local income taxes beginning with tax year 2008. The board must administer the broker-dealer plan in compliance with Internal Revenue Service standards for qualified State tuition programs. The bill also clarifies that the existing Maryland College Investment Plan provides distributions, not refunds, as requested by account holders.

Fiscal Summary

State Effect: General fund revenues would decrease by an estimated $240,100 in FY 2009 due to subtraction modifications under the new broker-dealer college savings plan. Future year revenue reductions reflect annualization, the estimated number of taxpayers eligible for the subtraction modification, and subtraction modifications carried over from prior year contributions. Expenditures would not be affected.

($ in millions)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	($.2)	($1.4)	($2.6)	($3.8)	($4.8)
Expenditure	$0	$0	$0	$0	$0
Net Effect	($.2)	($1.4)	($2.6)	($3.8)	($4.8)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government income tax revenues would decrease by an estimated $155,000 in FY 2009 and by an estimated $3.1 million in FY 2013.

Small Business Effect: The College Savings Plans of Maryland Board has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The College Savings Plans of Maryland Board must adopt procedures for the broker-dealer plan and may issue requests for proposals to evaluate and determine the means for the administration, management, promotion, or marketing of the broker-dealer plan. The broker-dealer plan may be established as one or more separate plans and may be divided into multiple investment options.

A Maryland resident or, at the discretion of the board, a nonresident of Maryland may participate in and benefit from the broker-dealer plan. The board may require an initial enrollment fee to be used for administrative costs of the broker-dealer plan and may require additional fees associated with the expenses of the plan. Broker-dealer plan account holders must be sent statements at least annually detailing account balances, contributions to the accounts, and withdrawals from the accounts. Contributions to the broker-dealer plan may only be made in cash and cash equivalents and may not exceed the maximum amount determined by the board to be in accordance with Section 529 of the Internal Revenue Code.

The bill clarifies that, for each qualified designated beneficiary, the maximum $2,500 subtraction modification per account holder applies to contributions to the existing investment plan and the new broker-dealer plan.

The debts, contracts, and obligations of the broker-dealer plan are not the obligations of the State, and the State and institutions of higher education are not liable for any losses or shortages of funds in the plans. Funds from the broker-dealer plans may not be commingled with funds from the Maryland Prepaid College Trust or the Maryland College Investment Plan. In addition, the funds may not be considered State money or deposited in the State treasury.

Assets and income of the broker-dealer plan are exempt from State and local taxation. The legislative auditor must audit the broker-dealer plan, and the College Savings Plans of Maryland Board must obtain an annual audit report from broker-dealer service providers.

Current Law: The College Savings Plans of Maryland Board operates two college savings programs established in State law: the Maryland Prepaid College Trust and the Maryland College Investment Plan. Account holders enroll directly in the programs.

Per contract (prepaid trust) and per account (investment plan), a taxpayer may subtract up to $2,500 per year from Maryland taxable income for contributions made to Maryland's college savings plans. Contributions exceeding $2,500 may be carried over for 10 successive tax years. Earnings on money invested in college savings plans are not subject to State or federal taxes as long as the funds are used for eligible college expenses.

Background: The College Savings Plans of Maryland Board advises that this legislation is being introduced to enable Maryland families who choose to invest through private investment advisors to participate in college savings plans that will result in State income tax benefits. Currently, brokers have no incentive to direct clients to the Maryland Prepaid College Trust or the Maryland College Investment Plan because the clients enroll themselves in the programs and brokers are not paid commissions. As a result, some brokers have steered clients towards programs in other states that are managed by their investment firm or another firm that pays commissions. Investing in another state's plan offers no State and local tax benefits to Maryland taxpayers. CollegeAmerica is an example of one such broker-sold plan offered by the Commonwealth of Virginia. Another example is the UNIQUE College Investing Plan sponsored by the state of New Hampshire.

According to an *Introduction to 529 Plans* published by the U.S. Securities and Exchange Commission, investors who purchase college savings plans from a broker typically pay additional fees to cover the broker's commission (known as the "load") and an annual fee of between 0.25% and 1.00% of the investment.

The College Savings Plans of Maryland Board advises that the elimination of language about refunds under the Maryland College Investment Plan is being suggested as a clarification of current practice. Currently, it is up to investment plan account holders to request distributions and determine the tax implications of each distribution.

State Revenues: General fund revenues would decrease by an estimated $240,100 in fiscal 2009, which reflects the bill's October 1, 2008 effective date and the bill's specification that subtraction modifications under the new broker-dealer plan may be claimed beginning in tax year 2008. This estimate reflects the following facts and assumptions:

- According to the College Savings Plans of Maryland Board, an average of 10,000 new beneficiaries are added annually to the Maryland College Investment Plan. Because the new broker-dealer plan would only be in effect at the end of the 2008 tax year, it is assumed that only 2,000 individuals would participate in the initial tax year.

- The College Savings Plans of Maryland Board estimates initial contributions would average $10,000, which would qualify account holders for the full amount of the subtraction modification ($2,500 annually) for four tax years.

- It is estimated that State revenue reductions would reflect a 4.8% effective tax rate for the subtractions.

Future year estimates reflect full participation by an estimated 10,000 new beneficiaries each year and an average contribution to broker-dealer plans of $10,000. By fiscal 2013, general fund revenues would decrease by an estimated $4.8 million annually, as shown in **Exhibit 1**.

Exhibit 1
Potential State and Local Revenue Decreases

Fiscal	State	Local	Total
2009	$240,100	$155,000	$395,100
2010	1,440,800	930,000	2,370,800
2011	2,641,400	1,705,000	4,346,400
2012	3,842,000	2,480,000	6,322,000
2013	4,802,500	3,100,000	7,902,500

Local Revenues: As shown in Exhibit 1, local income tax revenues would decrease by an estimated $155,000 in fiscal 2009. This estimate represents 3% of the projected amount of subtractions claimed. Local income tax revenues would decrease by an estimated $3.1 million annually beginning in fiscal 2013.

Additional Information

Prior Introductions: As introduced, HB 826 of 2002 and HB 30 of 2003 would have authorized the College Savings Plans of Maryland Board (which was the Maryland

Higher Education Investment Board at the time) to establish additional college savings programs. HB 30 was eventually passed, but the provisions authorizing the establishment of additional programs were eliminated from the legislation.

Cross File: None.

Information Source(s): College Savings Plans of Maryland, Comptroller's Office, Maryland Higher Education Commission, Department of Legislative Services

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