

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

House Bill 871  
Ways and Means

(Delegate Kaiser, *et al.*)

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Education - Dually Enrolled Students - In-State and In-County Tuition

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This bill establishes that a specified dually enrolled student must be exempt from paying the out-of-state tuition rate at a community college and eligible to pay a rate that is equivalent to the resident tuition rate at a public four-year higher education institution. Additionally, an individual must be eligible to pay a rate that is equivalent to the in-county tuition rate at a community college if the individual meets the dual enrollment eligibility requirements and attends a community college supported by the jurisdiction in which the secondary school that the individual attends is located. The governing board of each public institution of higher education must adopt appropriate policies to implement the bill.

The bill takes effect July 1, 2013.

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Fiscal Summary

**State Effect:** Any impact on tuition revenues for public four-year institutions is assumed to be minimal due to the small number of dually enrolled students at these institutions. Baltimore City Community College (BCCC) tuition revenues decrease by approximately \$366 per three-credit course for a dually enrolled student eligible for in-county tuition rather than out-of-state tuition under the bill. Expenditures are not affected.

**Local Effect:** Local community college tuition revenues decrease by, on average, \$508 per three-credit course for a dually enrolled student eligible for in-county tuition rather than out-of-state tuition under the bill.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** “Dually enrolled student” is defined as a student who is dually enrolled in a secondary school in the State and an institution of higher education in the State. Undocumented immigrants are specifically included; however, nonimmigrant aliens within the meaning of 8 U.S.C. Sec. 1101 (A)(15) are specifically excluded.

**Current Law:** Dually enrolled undocumented immigrants are required to pay out-of-state and out-of-county tuition rates. The Dream Act is restricted to specified Maryland high school *graduates*.

**Background:** Chapter 191 of 2011 (SB 167), known as the Dream Act, was petitioned to referendum and approved by Maryland voters in November 2012. Therefore, an individual who attended and graduated from a Maryland high school is exempt from paying out-of-state tuition, and in certain instances out-of-county tuition, at community colleges in Maryland under specified circumstances. Nonimmigrant aliens who are in the country on student visas do not qualify for the exemption, but otherwise the exemption applies regardless of residency status. An individual who graduates from or earns a certain number of credits from a community college under the Dream Act is then exempt from paying nonresident (*i.e.*, out-of-state) tuition at a public senior higher education institution in Maryland under specified circumstances.

For institutions within the University System of Maryland (USM), the Board of Regents sets tuition policies, including the determination of which students are eligible for resident tuition. The basic policy requires students to be identified as permanent residents of Maryland to qualify for resident tuition, meaning they have lived continuously in the State for at least 12 months immediately prior to attendance at a USM institution. An individual who is residing in Maryland primarily for the purpose of attending an educational institution is not considered a permanent resident.

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

Tuition policies at community colleges are set by the Code of Maryland 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. As a State-operated college, BCCC only has two tuition levels, in-state and out-of-state. In general, there is a three-month residency requirement for community colleges.

*Federal Law*

Under *Plyler v. Doe*, a 1982 Supreme Court decision, public elementary and secondary schools are required to accept undocumented immigrants. In its decision, the court contended that denying an education to the children of undocumented immigrants would “foreclose any realistic possibility that they will contribute ... to the progress of our Nation.” However, since 1996, federal immigration law has prohibited undocumented immigrants from obtaining a postsecondary education benefit that U.S. citizens cannot obtain. To get around the federal law, states that have passed in-state tuition benefits for undocumented immigrants have crafted legislation that bases eligibility on where a student went to high school, not immigration status. Dually enrolled students have not yet been addressed.

*Maryland Tuition Rates*

Proposed fall 2013 in-state and out-of-state tuition and fee rates for full-time undergraduates at the State’s public four-year institutions are shown in **Exhibit 1**.

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**Exhibit 1**  
**In-state and Out-of-state Tuition and Mandatory Fees**  
**Proposed Fall 2013 Rates**

	<u>In-state</u>	<u>Out-of-state</u>	<u>Difference</u>
USM Institutions			
Coppin State	\$5,882	\$10,816	\$4,934
UM Eastern Shore	6,998	15,504	8,506
Bowie State University	6,954	17,521	10,567
Salisbury University	8,128	16,474	8,346
Frostburg State University	7,728	18,376	10,648
Towson University	8,324	20,002	11,678
University of Baltimore	7,220	17,938	10,718
UM College Park	9,153	27,297	18,144
UM Baltimore County	9,771	28,339	18,568
UM University College	6,207	11,991	5,784
Other Public Four-year Institutions			
Morgan State University	7,152	16,636	9,484
St. Mary’s College of Maryland	15,354	28,664	13,310

Key: USM = University System of Maryland; UM = University of Maryland

Notes: The University of Maryland, Baltimore is not included because it enrolls relatively few undergraduate students. Rates are pending final approval.

Source: Morgan State University, St. Mary’s College of Maryland, University System of Maryland

The differences between the rates average more than \$10,700. Fall 2012 in-county, out-of-county, and out-of-state tuition rates for community colleges are shown in **Exhibit 2**. The exhibit shows that out-of-state rates at community colleges are generally two to three times the in-county tuition rates.

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**Exhibit 2**  
**In-county, Out-of-county, and Out-of-state Tuition and Fees at Community Colleges**  
**Per Three-credit Course**  
**Fall 2012**

<u>College</u>	<u>In-county</u>	<u>Out-of-county</u>	<u>Out-of-state</u>
Allegany	\$339	\$612	\$729
Anne Arundel	364	631	1,063
Baltimore City	300	300	666
Baltimore County	393	708	1,038
Carroll	391	568	794
Cecil	309	579	714
Chesapeake	465	714	945
College of Southern MD	410	708	915
Frederick	393	777	1,029
Garrett	342	720	837
Hagerstown	356	536	692
Harford	293	555	816
Howard	434	683	818
Montgomery	444	867	1,172
Prince George's	420	642	921
Wor-Wic	303	650	797

Source: Maryland Association of Community Colleges

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The Maryland Higher Education Commission reports that there were 5,064 dually enrolled students in the State in fiscal 2011, of which 4,933 were at community colleges, 51 were at public four-year institutions, and 62 were at nonprofit four-year institutions. It is unknown how many dually enrolled students are undocumented; however, reportedly approximately 80 dually enrolled students in Montgomery County failed to file the proper paperwork to prove their citizenship or immigration status.

**Local Revenues:** Local community college tuition revenues decrease by, on average, \$508 per three-credit course for a dually enrolled student eligible for in-county tuition rather than out-of-state tuition under the bill. Montgomery College loses approximately \$58,240 in tuition revenue, if it is assumed that all 80 dually enrolled students in Montgomery County who failed to file the proper paperwork qualify for in-county tuition under the bill and take one three-credit course a year.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore City Community College, Maryland State Department of Education, Maryland Higher Education Commission, State University, University System of Maryland, Montgomery County, Baltimore City, Department of Legislative Services

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