Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 167 (Senator Elfreth, *et al.*)
Budget and Taxation Appropriations

Maryland State Arts Council - Funding

This bill clarifies the general fund mandate calculation for the Maryland State Arts Council (MSAC) beginning in fiscal 2025. Specifically, beginning in fiscal 2025, the Governor must include in the annual budget bill a general fund appropriation for MSAC in an amount no less than the result of the following calculation: (1) any funds distributed to MSAC in accordance with § 2-202 of the Tax General Article, increased by the general fund growth adjustment; *plus* (2) the amount of the general fund appropriation for MSAC for the immediately preceding fiscal year increased by the general fund growth adjustment; *minus* (3) the amount of funds distributed to MSAC in the immediately preceding fiscal year in accordance with § 2-202 of the Tax General Article. The "general fund growth adjustment" is defined as the percentage by which the projected total general fund revenues for the upcoming fiscal year exceed the revised estimate of total general fund revenues for the current fiscal year, as further specified. An obsolete uncodified provision is also removed. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: Assuming the Department of Budget and Management (DBM) would have otherwise continued with its current interpretation of the MSAC funding mandate, the bill has no effect on State expenditures. Revenues are not affected. **This bill clarifies an existing mandated appropriation beginning in FY 2025.**

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: MSAC is a 17-member State agency established in 1967. The council's mission is to encourage and invest in the advancement of the arts for the people of the State, which the council accomplishes largely through grants to arts organizations and local arts agencies. The council also makes grants to enhance the availability of artists in public schools, further the creative work of individual artists, and support the preservation of folk and traditional arts.

Generally, MSAC is funded through a mandated general fund appropriation and a $1.0 million transfer from certain admissions and amusement (A&A) tax revenues each year. General funds allocated to MSAC are required to grow each year by the expected percentage growth in general fund revenues. These provisions have been modified and clarified several times and have been interpreted by DBM in a way that reduced annual general fund appropriations beginning in fiscal 2022. See below for additional details.

State Fiscal Effect: General funds allocated to MSAC are required to grow each year by the expected percentage of growth in general fund revenues. MSAC also receives $1.0 million annually from A&A tax revenues on electronic bingo and electronic tip jars. The Budget Reconciliation and Financing Act (BRFA) of 2017 required that funds from the A&A tax revenues be included in the calculation to determine the mandated general fund appropriation for MSAC, although at the time the revenue transfer was set to terminate after fiscal 2021. Chapter 14 of 2021 extended the transfer indefinitely but did not indicate how to treat the transfer for purposes of future MSAC general fund appropriations.

Beginning in fiscal 2022, DBM changed its method for calculating the general fund mandate for MSAC based on a change in interpretation of the language in the BRFA of 2017 on how to include the A&A tax revenues in the calculation compared to prior years. Both methods use the A&A tax revenues as part of the base when calculating the growth, but the new (current) method then removes the $1.0 million in A&A tax revenues after that growth calculation. This has the effect of reducing the following year's general fund base by $1.0 million. The difference grows each year due to the cumulative effect of the lower base on subsequent calculations.

The bill clarifies the existing mandate provisions to explicitly align with DBM's current interpretation. Assuming DBM would have otherwise continued with its current interpretation, there is no effect on general fund expenditures.

Additional Comments: The 2022 *Joint Chairmen's Report* requested information on the funding mandate altered by the bill. See the Department of Commerce's response for further discussion and legislative history.

Additional Information

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

Designated Cross File: None.

Information Source(s): Department of Commerce; Comptroller's Office; Department of Budget and Management; Department of Legislative Services

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