

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 722
Ways and Means

(Delegate Doory, *et al.*)

Horse Racing - Pimlico Race Course - Transfer of Preakness Stakes Name and Trademarks

This bill provides for the unconditional and unencumbered transfer of the name of the Preakness Stakes; copyrights, trademarks, service marks, and trade names associated with the Preakness Stakes; and the trophy known as the Woodlawn Vase to the State of Maryland, if any form of gambling, other than pari-mutuel betting, is authorized for Pimlico Race Course.

The bill takes effect July 1, 2004

Fiscal Summary

State Effect: Potential decrease in revenues. The amount of the loss would range from \$0 to the amount of a license fee for a Pimlico Race Course gambling license.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides that except for pari-mutuel betting, video lottery terminals (VLT) and other forms of gambling may not be conducted at Pimlico Race Course in Baltimore City unless the owner of the name, copyrights, service marks, trademarks, and trade names associated with the Preakness Stakes has transferred them unconditionally and unencumbered to the State. The owner must make the transfer

before the implementation of any law that authorizes the operation of VLTs or any other form of gambling at the Pimlico Race Course. Likewise, the owner of the trophy known as the Woodlawn Vase must transfer to the State all rights to the vase prior to the implementation of any such law.

Before the transfer of these rights to the State, a judicial hearing would determine if the copyright values of the Preakness Stakes and Woodlawn Vase exceed the combined value of: (1) the copyright use values of the Preakness Stakes and Woodlawn Vase; and (2) the value of any gambling license at Pimlico. The license value of any gambling license is defined as the value of the license in excess of any amount paid to the State to obtain the license.

If the judicial hearing determines that the copyright values of the Preakness Stakes and Woodlawn Vase are more valuable, the amount by which these copyrights are more valuable will be subtracted from the amount that the owner of Pimlico Race Course must pay the State for any gambling license other than a pari-mutuel betting license.

After the transfers have taken effect, the State is required to license the person that undertook the transfers the sole and exclusive right to the Preakness Stakes name, copyrights, etc., and the Woodlawn Vase if the licensee promotes and conducts the Preakness Stakes at the Pimlico Race Course each year.

The rights under the license may not be assigned or transferred by the licensee to any person without the prior written approval of the State. Assignment or transfer includes a change in ownership of the licensee by more than 50% of all the voting interests in the licensee during any 12 consecutive month period.

If the licensee violates any of the conditions in the bill, the license granted to the licensee will terminate and any license for VLTs or any other form of gaming may not be transferred to any other person.

Except as otherwise provided, the State may not sell, lease, convey, transfer, assign, license, or exchange its rights, title, and interests in the Preakness Stakes, the Woodlawn Vase, and the Preakness Stakes name, copyrights, service marks, trade names, and trademarks unless authorized by an act of the General Assembly.

Current Law: The Maryland Jockey Club and Magna Entertainment Corporation hold the rights to the Preakness Stakes.

Background: Regulated gaming in Maryland dates back to 1743 with the regulation of horse racing. Pari-mutuel betting was introduced in 1912 and the State Racing

Commission was established in 1920. The Pimlico Race Course opened October 25, 1870. It is the nation's second oldest race course, after Saratoga. The first race ever run at the Pimlico Race Course was called the Dinner Party Stakes. This race is now known as the Dixie Handicap, and is the eighth oldest stakes race in the U.S. This race was also the precursor of the Preakness Stakes. The first Preakness Stakes was run May 27, 1873 at the Pimlico Race Course.

State Revenues: Within the last year, several bills have proposed that the owners of Pimlico Race Course pay a fee in exchange for a VLT gaming license. These proposed fees have ranged from \$5 million to \$100 million. If a judicial hearing concludes that the loss in value to the owners of Pimlico Race Track due to the alteration of the copyright status of the Preakness Stakes and Woodlawn Vase is greater than the benefit conveyed to these owners from the granting of a gambling license, the owners would receive compensation. This compensation would be reflected as a lowering of the gambling license fee to be paid.

Legislative Services advises that due to the wide range in potential license types and fees, it cannot be reliably estimated if this bill would cause a decrease in revenue or the extent of any possible decrease. The maximum loss would be limited to the license fee to be paid by the owners of Pimlico Race Course for a gambling license fee.

Additional Information

Prior Introductions: HB 1014 of 2003, a similar bill, was not reported from the House Ways and Means Committee.

Cross File: SB 734 (Senator Klausmeier) – Budget and Taxation.

Information Source(s): Department of Legislative Services

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