

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE

House Bill 894 (Chairman, Appropriations Committee)
 (By Request – Departmental – College Savings Plans of Maryland)
 Appropriations Education, Health, and Environmental
 Affairs

Procurement - College Savings Plans of Maryland Board - Exemption

This departmental bill exempts the College Savings Plans of Maryland (CSPM) from State procurement laws for services of managers to invest the assets of the Maryland Prepaid College Trust (the trust) and for expenditures to manage, maintain, and enhance the value of the trust’s assets. The bill provides that the trust would still be subject to the Minority Business Enterprise (MBE) program. Contracts for investment services and expenditures to manage the trust are required to be in accordance with the Comprehensive Investment Plan adopted by the board.

The bill is effective July 1, 2004.

Fiscal Summary

State Effect: Nonbudgeted expenditures in the Maryland Prepaid College Trust for mutual fund fees could decrease by \$348,800 due to lower investment manager costs. Out-year estimates reflect agency asset value estimates.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Revenues	\$0	\$0	\$0	\$0	\$0
NonBud Exp.	(348,800)	(402,100)	(461,200)	(523,800)	(585,300)
Net Effect	\$348,800	\$402,100	\$461,200	\$523,800	\$585,300

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

Local Effect: None.

Small Business Effect: CSPM has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The Maryland State Retirement and Pension System (SRPS) is currently exempt from the State Procurement Article for services of managers to invest the assets of SRPS; expenditures to manage, maintain, and enhance the value of the system's assets; and services related to the optional retirement program.

The trust must currently follow the provisions of the State Procurement Article. Maryland's current procurement laws were drafted to ensure that State contract awards are based on technical merit and lowest price, that State contracts are awarded on the basis of effective competition between vendors, and that the award of contracts is immune from inappropriate influences. The current law was modeled after the Model Procurement Code developed by the American Bar Association and was enacted in 1980.

The Board of Public Works (BPW) delegates procurement authority to various control agencies including the Department of Budget and Management (DBM) for services and information technology contracts; the Department General Services for nonhighway and nonprison construction, the purchase of commodities, and the lease of real property; and the State Treasurer for banking, financial services, and insurance.

Background: The trust is administered by CSPM, an independent, nonbudgeted State agency. The board assesses fees from the accounts of participants to pay for the administration of the plan. The board prepares and submits a budget to the General Assembly for informational purposes.

The trust is a Section 529 plan – named after the section of the Internal Revenue Code that permits states to establish and administer tax-deferred college savings plans. The plan benefits from federal and Maryland State tax incentives, including:

- tax-deferred growth at the Maryland State and federal level;
- tax-free earnings at the Maryland State and federal level through at least 2010, provided the funds are used for eligible college expenses; and
- Maryland State income deduction of contributions to either or both plans, up to \$2,500 annually per account or beneficiary depending on the plan. Contributions above \$2,500 annually in either plan may also be carried forward and deducted in future years.

The trust is approximately 82% funded on an actuarial basis. Two factors influencing the actuarial deficit are: (1) larger than anticipated tuition and fee increases for the 2003-2004 academic year; and (2) increased future year tuition projections. The trust's rate of return on its investments was 7.51% for fiscal 2003 and -7.78% for fiscal 2002.

State Fiscal Effect: CSPM indicates that the board has invested the funds paid to the trust in mutual funds since its inception in 1998. The board's investment advisor assists the board in developing an investment policy and selecting specific mutual funds. The board indicates that because the assets of the plan have grown above \$200 million; it would be more cost-effective for the board to utilize active managers of funds. Under current law, procurements take several months, and the ability of the board to effectively reallocate assets under its investment plan is curtailed. The exemption proposed here would still require the board to review and select investment options in accordance with a stated investment policy. The exemption would also permit the board to enter into fee structures that are not currently permitted but would provide lower costs for some investment vehicles.

CSPM estimates that total fee reductions, minus additional custodial costs for setting up multiple accounts for managers, will be \$348,848 in fiscal 2005. CSPM estimates out-year growth in savings related to investment income growth and continued fee savings. CSPM estimates that annual savings from reduced fees could reach an aggregate of \$2.3 million for fiscal 2005 through fiscal 2009.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): College Savings Plans of Maryland, Department of Legislative Services

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Analysis by: Daniel P. Tompkins

Direct Inquiries to:
(410) 946-5510
(301) 970-5510