

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 1148

(Senator Ferguson, *et al.*)

Finance

Appropriations

**Maryland Stadium Authority - Maryland Sports and Affiliated Foundations -
Establishment**

This bill authorizes the Maryland Stadium Authority (MSA) to establish one or more affiliated foundations to work with Maryland Sports, which is an existing office in MSA. Maryland Sports is also codified by the bill, and it is encouraged to promote private fundraising by maintaining relationships with each affiliated foundation established under the bill. MSA must develop policies for the operation of each affiliated foundation it establishes, subject to review and, if appropriate, approval by the Attorney General and the State Ethics Commission. In any fiscal year, after providing the budget committees of the General Assembly an opportunity for review and comment, MSA may grant up to \$500,000 of its available nonbudgeted money to affiliated foundations. An independent certified public accountant hired and paid by MSA must audit each affiliated foundation each year.

Fiscal Summary

State Effect: If MSA establishes one or more affiliated foundations, MSA nonbudgeted expenditures increase minimally beginning as early as FY 2018 to pay for required audits. Assuming relatively small foundations (less than \$1.0 million in annual revenue), each audit should cost approximately \$10,000. MSA nonbudgeted expenditures may further increase by *up to* \$500,000 annually beginning as early as FY 2018, after review and comment by the budget committees, to provide one or more grants to affiliated foundations. The amount and timing of any expenditures cannot be reliably estimated at this time. The Office of the Attorney General (OAG) and the State Ethics Commission can review any foundation policies and any notices of the joint service of an employee or official of MSA with an affiliated foundation, as appropriate, with existing resources. The bill does not directly affect State revenues. If MSA does not establish any affiliated foundations, the bill does not affect State finances or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Affiliated Foundations

MSA may establish one or more affiliated foundations to work with Maryland Sports. The purposes of an affiliated foundation are to:

- support the State in sports bid development, sporting event recruitment and retention, economic analysis and research relating to sporting events, sponsorship of sporting events, and development of partnerships with public and private entities designed to sponsor sporting events;
- promote regional, national, and international sporting events to be held, in whole or in part, in the State; and
- recruit, market, promote, work to retain, and manage sporting events that have a positive economic or cultural impact, or otherwise enhance the quality of life of the State's citizens.

An affiliated foundation may solicit and receive contributions from businesses, governmental entities, nonprofit organizations, and individuals interested in the promotion of sports in the State.

An affiliated foundation may not be considered an agency or instrumentality of the State or a unit of the Executive Branch for any purpose. A financial obligation or liability of an affiliated foundation established and operated under the bill may not be considered a debt or an obligation of the State, MSA, or Maryland Sports.

Review of Policies and Conflicts of Interest

Specified laws governing conflicts of interest in the General Provisions Article do not prohibit an MSA official or employee from also becoming a director or an official of an affiliated foundation organized under the bill. However, an MSA official or employee serving in such capacity may not be compensated, directly or indirectly, by the affiliated

foundation except for reimbursement of authorized expenses incurred on behalf of the affiliated foundation.

MSA must develop policies for the operation of each affiliated foundation it establishes. The Attorney General must review the policies MSA develops for form and legal sufficiency and, if appropriate, approve them to govern the affiliated foundation. The State Ethics Commission must review the policies that pertain to conflicts of interest and, if appropriate, approve them to govern an MSA official or employee when the individual also serves as a director or official of an affiliated foundation.

MSA must notify the State Ethics Commission in writing whenever MSA permits an official or employee to serve as a director or official of an affiliated foundation (*i.e.*, a joint service notice). The State Ethics Commission must notify MSA of any objections or concerns with the joint service within 30 days, at which point MSA must reexamine its decision.

MSA must annually submit a report to the Governor and the Legislative Policy Committee of the General Assembly that includes (1) the names of the MSA officials and employees serving as a director or official of an affiliated foundation and (2) how the policies and procedures adopted under the bill have been implemented in the preceding year.

Maryland Sports

An office known as Maryland Sports currently exists in MSA and is codified by the bill under the conditions below. Maryland Sports must implement a program to bring regional, national, and international sporting events at all levels of competition to the State for the purposes of utilizing sports facilities in the State, enhancing the economic development of the State, and promoting the State as a destination for amateur and professional sporting events.

Maryland Sports must act as the State's sports commission for the purpose of the National Association of Sports Commissions. To carry out the above purposes, Maryland Sports may:

- notwithstanding any other provision of law, request any State or local government body to provide information and assistance;
- notwithstanding any other provision of law, accept a gift, bequest, or grant from a public or private source;
- spend funds made available in the State budget;

- act as the host committee for regional, national, and international sporting events to be held in whole or in part in the State; and
- perform any other act necessary.

Maryland Sports is encouraged to promote private fundraising by maintaining relationships with each affiliated foundation established under the bill.

Current Law:

Affiliated Foundations

The bill mirrors, where applicable, much of existing current law related to private foundations affiliated with public institutions of higher education. Public institutions of higher education are encouraged to promote private fundraising by strengthening institutional development activities and by maintaining relationships with affiliated foundations.

Affiliated foundations that are independently established for this purpose must operate subject to policies adopted by the governing boards of the institutions and be approved for form and legal sufficiency by the Attorney General.

An affiliated foundation established and operated under these provisions may not be considered an agency or instrumentality of the State or a unit of the Executive Branch for any purpose. A financial obligation or liability of an affiliated foundation may not be considered a debt or an obligation of the State or the University System of Maryland.

Specified laws governing conflicts of interest in the General Provisions Article do not bar an official or employee of a public institution of higher education from becoming a director, official, or employee of an independent foundation organized to foster fundraising and provide related services for the benefit of the institution.

No funds may be accepted from an affiliated foundation by a public institution of postsecondary education unless the fiscal affairs of the affiliated foundation are audited annually by an independent certified public accountant.

Conflicts of Interest

Generally, an official or a State employee, other than a member of the General Assembly, may not participate in a matter if the employee or official encounters a conflict of interest, subject to limited exceptions.

Also, subject to limited exceptions, an official or a State employee, other than a member of the General Assembly, may not:

- be employed by or have a financial interest in (1) an entity subject to the authority of that official or employee or of the governmental unit with which the official or employee is affiliated or (2) an entity that is negotiating or has entered into a contract with that governmental unit or an entity that is a subcontractor on a contract with that governmental unit; or
- hold any other employment relationship that would impair the impartiality and independent judgment of the official or employee.

An official or a State employee, other than a member of the General Assembly, may not be employed by an entity that is a party to a contract that binds or purports to bind the State if the duties of the official or employee include matters substantially relating to or affecting the subject matter of the contract and the contract binds or purports to bind the State to pay more than \$1,000.

Subject to limited exceptions, an official or a State employee, other than a member of the General Assembly, may not, for contingent compensation, assist or represent a party in any matter before or involving any unit of the State or a political subdivision of the State.

Background:

Maryland Stadium Authority

MSA was established in 1986 as an independent unit in the Executive Department responsible for the construction, operation, and maintenance of facilities for professional baseball and football teams.

Since the Ravens football and Orioles baseball stadiums were constructed, MSA's authority has been extended to include construction and financing for other projects, such as convention and conference centers. More recently, in 2013, MSA's responsibilities were expanded to include the financing and construction management of a new program of school construction and renovation in Baltimore City. MSA may, in fact, manage any type of construction project for local governments and State agencies provided that the contracting agency shows that it can fund the project, and the budget committees of the General Assembly must have 30 days to review and comment before MSA begins the proposed work.

Maryland Sports

MSA's Office of Sports Marketing was created in 2007 with the goal of attracting and hosting national and international sporting events. Rebranded as Maryland Sports in 2015, the office develops and promotes sports tourism in the State. The stated goals and objectives of Maryland Sports, according to the MSA website, include:

- attract, host, create, and support national and international sports events and organizations throughout the State;
- encourage and promote the development of amateur athletics and youth sports in the State;
- retain existing sporting events that have positive economic impact and strong media positioning; and
- coordinate strategic alliances for partners and stakeholders, which enable them to attract, develop, retain, and host sporting events, programs, and organizations.

The fiscal 2018 operating budget includes \$513,000 for Maryland Sports, which includes \$350,000 in reimbursable funds for a new grant program to encourage youth and amateur sporting events established by Chapter 727 of 2016.

State Expenditures: If MSA establishes one or more affiliated foundations, MSA nonbudgeted expenditures increase minimally beginning as early as fiscal 2018 to pay for required audits. Assuming relatively small foundations (less than \$1.0 million in annual revenue), each audit should cost about \$10,000 or a little more. MSA advises that it anticipates establishing up to three foundations gradually over time.

MSA nonbudgeted expenditures may further increase by *up to* \$500,000 annually beginning as early as fiscal 2018, after review and comment by the budget committees of the General Assembly, to provide one or more grants to affiliated foundations. The amount and timing of any expenditures is unknown at this time, and it depends on the number of foundations being established and funding being available.

OAG and the State Ethics Commission can review any foundation policies and joint service notices, as applicable, with existing resources. The bill does not directly affect State revenues. If MSA does not establish any affiliated foundations, the bill does not affect State finances or operations.

Additional Information

Prior Introductions: None.

Cross File: HB 1619 (Delegate Clippinger) - Appropriations.

Information Source(s): Office of the Attorney General; State Ethics Commission; Department of Budget and Management; Board of Public Works; Maryland Stadium Authority; Department of Legislative Services

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