

Department of Legislative Services  
 Maryland General Assembly  
 2023 Session

FISCAL AND POLICY NOTE  
 First Reader

Senate Bill 167

(Senator Elfreth, *et al.*)

Budget and Taxation

Maryland State Arts Council - Funding

This bill alters 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 sum of (1) the amount of the general fund appropriation for MSAC for the immediately prior fiscal year and (2) any funds distributed to MSAC in the immediately preceding fiscal year in accordance with § 2-202 of the Tax General Article. As required for the existing general fund mandate, the amount must be increased each year by at least the percentage increase in total general fund revenues for the upcoming fiscal year, as specified. **The bill takes effect July 1, 2023.**

Fiscal Summary

**State Effect:** No effect in FY 2024. General fund expenditures increase by \$1.0 million in FY 2025, \$2.0 million in FY 2026, \$3.1 million in FY 2027, and \$4.2 million in FY 2028. General fund expenditures continue to increase at a similar rate in future years. State revenues and expenditures increase beginning as early as FY 2025 to the extent that eligible State entities receive and use additional funding through MSAC (not shown below). **This bill increases a mandated appropriation beginning in FY 2025.**

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	1.0	2.0	3.1	4.2
Net Effect	\$0.0	(\$1.0)	(\$2.0)	(\$3.1)	(\$4.2)

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

**Local Effect:** Revenues available to local arts agencies increase beginning in FY 2025; local expenditures increase correspondingly.

**Small Business Effect:** Potential meaningful.

## 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 the Department of Budget and Management (DBM) in a way that reduced annual general fund appropriations beginning in fiscal 2022. See below for additional details.

### **State Fiscal Effect:**

#### *Mandated Appropriation*

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 reverts to the funding process in effect in the years immediately prior to fiscal 2022. Assuming DBM would have otherwise continued with its current

interpretation, the effect on general fund expenditures is shown in **Exhibit 1** below. The \$1.0 million annual transfer is not affected.

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**Exhibit 1**  
**Maryland State Arts Council Appropriations**  
**Current Law vs. Under the Bill**  
**Fiscal 2024–2028**  
**(\$ in Millions)**

	<u><b>FY 2024</b></u>	<u><b>FY 2025</b></u>	<u><b>FY 2026</b></u>	<u><b>FY 2027</b></u>	<u><b>FY 2028</b></u>
General Fund Growth Rate	5.7%	3.2%	1.7%	3.3%	4.5%
<b>Calculation Under the Bill*</b>					
General Funds	\$28.4	\$30.4	\$31.9	\$34.0	\$36.6
Special Funds from A&A Tax	1.0	1.0	1.0	1.0	1.0
<b>Total</b>	<b>\$29.4</b>	<b>\$31.4</b>	<b>\$32.9</b>	<b>\$35.0</b>	<b>\$37.6</b>
<b>Current Calculation*</b>					
General Funds	\$28.4	\$29.4	\$29.9	\$30.9	\$32.4
Special Funds from A&A Tax	1.0	1.0	1.0	1.0	1.0
<b>Total</b>	<b>\$29.4</b>	<b>\$30.4</b>	<b>\$30.9</b>	<b>\$31.9</b>	<b>\$33.4</b>
<b>Difference – General Fund Expenditures</b>	<b>\$0.0</b>	<b>\$1.0</b>	<b>\$2.0</b>	<b>\$3.1</b>	<b>\$4.2</b>
<b>Cumulative Difference</b>	<b>\$0.0</b>	<b>\$1.0</b>	<b>\$3.0</b>	<b>\$6.1</b>	<b>\$10.3</b>

A&A: admissions and amusement  
MSAC: Maryland State Arts Council

\*The calculation under the bill was also the method of calculation in place prior to fiscal 2022; the current method of calculation has been in place for fiscal 2022 and beyond.

Notes: General fund growth rates are those in the December 2022 general fund forecast by the Bureau of Revenue Estimates. Other sources of MSAC revenue not affected by the bill are excluded for clarity.

Source: Department of Legislative Services

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Accordingly, general fund expenditures increase by \$1.0 million in fiscal 2025, \$2.0 million in fiscal 2026, \$3.1 million in fiscal 2027, and \$4.2 million in fiscal 2028. General fund expenditures continue to increase at a similar rate in future years. MSAC can

distribute the additional funds in these years with existing staff but may require additional staff in future years as funding continues to increase.

*Use of Additional Funding by the Maryland State Arts Council*

Grant recipients under MSAC's various programs include nonprofit entities and units of State and local government. State revenues and expenditures increase beginning as early as fiscal 2025 to the extent that eligible State entities receive and use grants from MSAC made available through the bill's additional funding. The amount, if any, cannot be reliably estimated at this time, but the potential effect increases each year.

**Local Fiscal Effect:** Local government revenues and expenditures increase beginning as early as fiscal 2025 to the extent that eligible local entities receive and use grants from MSAC made available through the bill's additional funding. The amount, if any, cannot be reliably estimated at this time, but the potential effect increases each year.

**Small Business Effect:** Small arts businesses may benefit from additional funding available for MSAC programs, such as the Grants for Artists program, which offers \$6,000 grants that may be used for a variety of purposes, beginning in fiscal 2025. The potential effect increases each year.

**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.

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### **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 Legislative Services

**Fiscal Note History:** First Reader - January 23, 2023  
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