

Department of Legislative Services

Maryland General Assembly

2023 Session

FISCAL AND POLICY NOTE**Third Reader - Revised**

Senate Bill 720

(Chair, Budget and Taxation Committee)(By Request -
Departmental - Labor)

Budget and Taxation

Ways and Means

**Horse Racing - Extension of Maryland Horse Racing Act and Establishment of
Maryland Thoroughbred Racetrack Operating Authority**

This departmental bill extends the termination date for the Maryland Horse Racing Act and Maryland Racing Commission by 10 years to July 1, 2034, subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act (MPEA). The bill also establishes a Maryland Thoroughbred Racetrack Operating Authority and a Maryland Racing Operations Fund. **The bill's provisions regarding the Maryland Thoroughbred Racetrack Operating Authority and the Maryland Racing Operations Fund take effect June 1, 2023, and terminate June 30, 2027.**

Fiscal Summary

State Effect: Special fund revenues for the Maryland Racing Operations Fund increase by at least \$15.0 million in FY 2023 due to a redirection of funding in the FY 2023 capital budget. Expenditures from the fund may increase for staffing the new authority and a required study in FY 2024. Special fund revenues and expenditures for the Maryland Racing Commission are maintained from FY 2025 through 2034.

Local Effect: There is no material impact on local government finances. Even so, the bill ensures the maximum amount of funding previously authorized for transfer to the City of Bowie is provided, with most of it required to be used for remediation costs of the Bowie Race Course Training Center.

Small Business Effect: The Maryland Department of Labor has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The Maryland Thoroughbred Racetrack Operating Authority is established as a body politic and corporate and is an instrumentality of the State, with the stated purpose of maintaining the State as a best-in-class thoroughbred racing venue. To that end, the authority may:

- study and make any recommendations that the authority finds are in the best interests of thoroughbred racing in the State;
- in coordination with other State entities, develop new and existing horse racing and training facilities in the State;
- take specified actions (as discussed below), but only in accordance with an executive order or a determination of the Maryland Racing Commission, and subject to specified review and comment, that a thoroughbred racing licensee – for any reason other than weather, an act of God, or other circumstances beyond the control of the licensee – is unable to support the minimum number of live racing days;
- enter into any agreements, leases, partnerships, or contracts necessary to support and sustain Maryland thoroughbred racing and pari-mutuel wagering activity and ensure compliance with Maryland Racing Commission rules and regulations;
- authorize or create a separate body, entity, or holding company to carry out any provisions of the bill;
- adopt regulations to carry out the provisions of the bill; and
- make any other recommendations the authority deems necessary.

The Legislative Policy Committee must first review and comment on an executive order or determination of the Maryland Racing Commission related to a thoroughbred racing licensee being unable to support the minimum number of live racing days. The bill allows for the authority, under such an order or determination, to manage and oversee day-to-day thoroughbred horse racing operations, live racing days, and assets in the State and, in coordination with the Maryland Economic Development Corporation (MEDCO), acquire property or contractual interests, as specified. Under such circumstances, the Maryland Racing Commission may issue a license and live racing days to the authority.

The bill specifies the membership of the authority and authorizes the hiring of an executive director as well as the employment or retention of staff as deemed necessary or advisable, including consultants, engineers, architects, accountants, financial experts, construction experts and personnel, superintendents, managers, and other professional personnel. Subject to the approval of the authority and pursuant to its approved budget, the executive director must determine the compensation of all staff that the authority employs or retains. The Attorney General is the legal advisor to the authority and, with the approval of the Attorney General, the authority may retain any additional legal counsel as necessary.

The authority may use various powers to operate as necessary, including (1) accepting loans, grants, or assistance of any kind from the federal or State government, a local government, a college or university, or a private source; (2) entering into contracts and other legal instruments; (3) retaining, employing, or hiring an independent firm for the purpose of operating and managing live horse racing in the State; (4) creating, owning, controlling, or being a member of a corporation, limited liability company, partnership, or other entity, whether operated for profit or not for profit; and (5) assisting with the advertising and promotion of horse racing interests. The authority is exempt from State and local taxes.

The bill also establishes the Maryland Racing Operations Fund as a special, nonlapsing fund administered by the authority, to assist the authority in financing the acquisition, construction, rehabilitation, or other capital or operating expenses for thoroughbred racetracks in the State. The fund consists of (1) money distributed to the fund from the existing Racing and Community Development Financing Fund (Financing Fund), as authorized by the bill; (2) money appropriated in the State budget to the fund; (3) interest earnings of the fund; and (4) any other money from any other source accepted for the benefit of the fund. Any interest earnings of the fund must be credited to the fund and expenditures from the fund may be made only in accordance with the State budget.

Under current law, the owner of the Bowie Race Course Training Center must convey the training center property to the City of Bowie by December 31, 2023. The bill delays that conveyance date to December 31, 2024. In addition, the bill alters provisions of Chapter 590 of 2020 by (1) requiring the transfer of \$1.5 million from the Facilities Fund, rather than an amount between \$1.0 million and \$1.5 million, to the City of Bowie for remediation costs of the property, subject to certain limitations, and (2) allowing up to \$100,000 of those funds to be utilized for engineering design and environmental analysis prior to the acquisition of the property.

The fiscal 2023 capital budget (Chapter 344 of 2022) directed \$5.0 million in funding to Pimlico Race Course demolition and \$10.0 million in funding to the acquisition, planning, design, construction, repair, renovation, reconstruction, site improvement, and capital equipping of backstretch housing facilities at Laurel Park. The bill redirects these funds to the Maryland Racing Operations Fund for the acquisition, construction, rehabilitation, or other capital or operating expenditures for thoroughbred racetracks.

The Maryland Thoroughbred Racetrack Operating Authority must report to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the House Ways and Means Committee by December 1, 2023, on (1) the feasibility of establishing at least two alternative thoroughbred training facilities in the State; (2) thoroughbred racing industry models and recommendations regarding operating

models in the State; and (3) the progress of the Pimlico and Laurel Park racing facility redevelopment plans under Chapter 590.

Current Law/Background:

Maryland Racing Commission

The Maryland Racing Commission is responsible for the regulation of horse racing in the State. The commission seeks to protect and promote the public interest in all matters pertaining to horse racing and wagering. The commission has established pari-mutuel betting as the only legal system of wagering on horse races on racetracks over which the commission has jurisdiction. Pari-mutuel betting is a system of betting in which those who successfully bet on horses that finish in specified positions share the mutuel pool. The commission is responsible for regulating, with few exceptions, the conduct of all pari-mutuel betting and other aspects of horse racing in the State. It does so with guidance from two advisory committees.

The commission is 1 of approximately 60 regulatory entities and activities subject to termination unless reauthorized periodically through statute. The Maryland-Bred Race Fund Advisory Committee and Standardbred Race Fund Advisory Committee are both under the jurisdiction of the commission and are also subject to MPEA. Under MPEA, these entities may also be subject to an evaluation by the Office of Program Evaluation and Government Accountability (OPEGA) within DLS prior to their termination. However, OPEGA may conduct an evaluation only if directed by specified entities or by legislation. The commission and its two advisory committees are scheduled to terminate July 1, 2024; OPEGA was not asked to conduct an evaluation prior to the commission's termination. Accordingly, the commission has requested reauthorizing legislation, which encompasses the advisory committees.

Racing and Community Development Act of 2020

Chapter 590 (The Racing and Community Development Act of 2020) provided for the redevelopment of Pimlico Race Course in Baltimore City and Laurel Park in Anne Arundel County, as well as for the conveyance of the Bowie Race Course Training Center.

Chapter 590 authorized the Maryland Stadium Authority (MSA), subject to the approval of the Board of Public Works (BPW), to issue up to \$375.0 million in bonds to finance planning, design, and construction and related expenses for construction management, professional fees, and contingencies in connection with racing facilities. MSA must enter into agreements with project entities or local entities for planning, design, and construction of the racing and community development projects at a racing facility site. In addition, MSA must provide to the fiscal committees of the General Assembly specified financing

plans at least 45 days before seeking approval of BPW for each bond issue or other borrowing. The financing plan or plans must provide for at least \$180.0 million in anticipated project costs at the Pimlico site and \$155.0 million in anticipated project costs at the Laurel Park site. Debt issued for the redevelopment projects is a limited obligation of MSA and is not an obligation or debt of the State. MSA may enter into agreements with project entities for the construction of the projects during the periods of planning, design, and construction of the facilities. Before the issuance of any bonds to finance improvements to a racing facility, MSA may pay for any costs for administration, overhead, and operations of MSA or costs of engineering, architectural, and other design professionals from the Facilities Fund. Chapter 590 specified the requirements for and the contents of long-term agreements for management and operations at the Pimlico and Laurel Park racing facility sites.

Chapter 590 provided for the financing of the racing facility redevelopment projects and for the payment of debt service for bonds issued by MSA. The Act established the Racing and Community Development Financing Fund (Financing Fund) and the aforementioned Facilities Fund. The Financing Fund is a revolving fund established for implementing racing and community development projects and for the payment of debt service expenses incurred by MSA, or otherwise approved by MSA, concerning those projects; the fund consists of proceeds from the sale of bonds and money paid to the fund from the State Lottery Fund. The Facilities Fund is a revolving fund established for implementing racing and community development projects and to pay specified expenses incurred by MSA; the fund consists of specified monies, fund transfers, and the unencumbered fund balances allocated to thoroughbred tracks and Rosecroft Raceway under the Racetrack Facility Renewal Account as of June 30, 2020. Chapter 590 required that between \$1.0 million and \$1.5 million from the Facilities Fund be transferred to the City of Bowie for remediation costs at the Bowie Race Course Training Center, provided a specified agreement between the City of Bowie and Bowie State University has been executed. In addition, \$2.0 million of the money transferred to the Facilities Fund may be used to reimburse racing licensee costs attributable to maintaining ongoing year-round racing operations, ensuring the continued running of the Preakness Stakes at Pimlico during construction, and other expenses relating to the Bowie Race Course Training Center.

Chapter 590 also required that, by December 31, 2023, the owner of the Bowie Race Course Training Center must convey the training center property to the City of Bowie “as is,” with all defects that may exist, whether known or unknown, and without any express or implied warranty, guarantee by, or recourse against the conveyor of the property. Chapter 590 specifies permissible uses for certain portions of the transferred property.

Chapter 61 of 2022

Among various provisions, Chapter 61 of 2022 required MSA to provide two reports, by [September 30, 2022](#), and [January 1, 2023](#), to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the House Ways and Means Committee on the progress of the Pimlico and Laurel Park racing facility redevelopment plans under Chapter 590. In addition, the Act required MEDCO to report, by [September 1, 2022](#), to those committees on an evaluation of the feasibility, limitations, costs, and potential benefits related to the acquisition of the Laurel Park racing facility site by a government or nonprofit entity to ensure the redevelopment and construction of facilities at the Laurel Park site. Finally, the Act required the mile thoroughbred licensees, the Maryland Thoroughbred Horsemen's Association, and the Maryland Horse Breeders Association to report by [September 30, 2022](#), to the same committees on the status of the Maryland thoroughbred racing operations. These reports can also be found on the DLS website.

State Fiscal Effect: The bill does not mandate funding for the authority but does redirect \$15.0 million provided in the fiscal 2023 capital budget for specified uses at Pimlico Race Course and Laurel Park to the Maryland Racing Operations Fund for various capital expenditures for thoroughbred racetracks. In addition, the bill authorizes MSA to transfer money from the Facilities Fund to the Maryland Racing Operations Fund. This analysis assumes the funding for costs related to Thoroughbred Racetrack Operating Authority staff and the required study come from these sources beginning in fiscal 2024. However, actual expenditures under the bill will vary depending on any amounts transferred to the Maryland Racing Operations Fund and the amount of discretionary funding, if any, provided in the State budget each year. As of February 1, 2023, there is approximately \$53.0 million in the Facilities Fund.

Additional Information

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

Designated Cross File: None.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

Fiscal Note History:
rh/jrb

First Reader - March 7, 2023

Third Reader - April 7, 2023

Revised - Amendment(s) - April 7, 2023

Revised - Other - June 8, 2023

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Horse Racing – Extension of Maryland Horse Racing Act and Establishment of Maryland Thoroughbred Racetrack Operating Authority

BILL NUMBER: SB 720

PREPARED BY: J. Michael Hopkins

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

OR

 WILL HAVE A MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS