

Legislative Analysis



COLLEGE STUDENT-ATHLETES

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House Bill 4844 (H-1) as passed by the House
Sponsor: Rep. Angela Witwer
Committee: Higher Education
Complete to 10-23-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4844 would amend 2020 PA 366, which regulates the ability of students enrolled at Michigan's institutions of higher education who participate in collegiate athletics to earn compensation for the use of their name, image, and likeness (NIL) or athletic reputation.

Section 3 of the act prohibits a postsecondary education, athletic association, conference, or other group or organization with authority over intercollegiate athletics from taking certain actions in regard to a student athlete's earning income from their name, image, or likeness. The bill would add a provision that also prevents those entities from stopping a student athlete from earning compensation (which the bill specifies as including food, shelter, medical expenses, and insurance) from a third party for that student athlete's NIL, as long as the student athlete's contract with the third party does not require the student to advertise for a sponsor in person during official, mandatory team activities.

Section 5 of the act prohibits the entities described above from interfering with a student's full participation in intercollegiate athletics for earning NIL or for obtaining representation related to compensation for NIL. An athletic association, conference, or other group or organization with authority over intercollegiate athletics is also prohibited from preventing a postsecondary educational institution from fully participating in intercollegiate athletics, or issuing a penalty against such an institution, for a student's obtaining representation related to compensation for NIL. In each prohibition, the bill would remove a provision that specifies that the compensation must be NIL compensation, changing the language so it applies to compensation generally.

Section 7 requires a student to disclose intent to enter into an NIL agreement worth \$1,000 or more in compensation to a designated official of the postsecondary educational institute they attend in a manner and at a time prescribed by that institution. The bill would add language specifying that a team contract for a postsecondary educational institution athletic team could not prevent a student from participating in, or being part of, an advertisement that was created while not engaged in official team activities but that may otherwise be broadcast, displayed, or disseminated at any time.

House Bill 4844 would amend section 10 of the act by adding language to an existing provision that states that a postsecondary educational institution and other intercollegiate athletics entities do not have to aid a student in pursuing or identifying NIL opportunities. The language added would specify that, while this is not required, a postsecondary

institution or any officer, director, or employee, including a coach, member of a coaching staff, or other individual associated with the school's athletic department may identify or assist a student with identifying NIL opportunities, as long as that person aiding the student does not do any of the following:

- Serve as the student athlete's agent.
- Receive compensation from the student athlete or a third party for facilitating or enabling those opportunities.
- Attempt to influence the student athlete's choice of professional representation related to those opportunities.
- Attempt to reduce the student athlete's opportunities from competing third parties.
- Attend any meeting at which a contract for compensation for the use of the student athlete's NIL rights is negotiated or completed between the student athlete and a third party.

Finally, the bill would require a postsecondary educational institution to provide, at no cost to its student athletes, programming on entrepreneurship, brand management, and financial literacy, as well as information about debt management, contract law, and sports marketing. This would not apply to public community colleges, although if a student athlete at a community college requested information on debt management, contract law, or sports marketing, then the community college would have to provide it at no cost to the requesting student athlete.

MCL 390.1733 et seq.

BACKGROUND:

While Michigan's college and universities are required to follow state and federal laws, eligibility requirements for participation in inter-collegiate athletics is largely determined by the National Collegiate Athletic Association (NCAA). As a national private membership organization, the NCAA can impose requirements on its members in accordance with federal law, and individual member colleges and universities must navigate those requirements as well as the laws of the state where that institution is based if they want to ensure that their student athletes remain eligible for NCAA-sanctioned competitions.

Under its current interim policy adopted in 2021, the NCAA has regulations in place regarding how student athletes may receive NIL compensation, with an explicit statement detailing the obligation of its member schools to follow the NCAA's guidelines if they wish for athletes to remain eligible, even if its guidelines run contrary to the state law where the college or university is based.¹

¹ [NIL Update Memo- June 27, 2023](#)

FISCAL IMPACT:

House Bill 4844 would increase costs for public universities and community colleges by an indeterminate amount. The bill requires postsecondary institutions to provide lessons around financial literacy, brand management, and entrepreneurship programming to all student athletes for no charge. The cost of these lessons would vary by institution depending on the number of student athletes enrolled, the actual amount of time provided for lessons, and the use of resources and instructors to provide the information. The increased costs would have to be absorbed by each university and community college, but estimates cannot be determined due to the high number of variables involved.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.