

ASSEMBLY CONSUMER AFFAIRS AND REGULATED  
PROFESSIONS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1144**

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 19, 1996

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably Assembly Bill No. 1144.

This bill establishes the New Jersey Athlete Agent Regulatory Board within the Division of Consumer Affairs in the Department of Law and Public Safety. It is responsible for the registration and regulation of athlete agents. Under the provisions of the bill, the term "athlete agent" is defined as any person who, as an independent contractor, directly or indirectly recruits or solicits any athlete to enter into any agent or professional sports services contract, or for a fee procures, offers, promises, or attempts to obtain employment for any athlete with a professional sports team or as a professional athlete. The term "athlete agent" does not include any employee or other representative of a professional sports team. An "athlete" is any individual who is a resident of this State and who participates or is eligible to participate in an amateur or professional sport or athletic event.

The bill provides that no individual shall engage in the occupation of athlete agent within this State or with a resident of New Jersey without first registering with the board. An attorney admitted to practice law in New Jersey who acts as an athlete agent is required to register with the board as an athlete agent.

The board shall consist of seven members to be appointed by the Governor with the advice and consent of the Senate. Two of the members of the board shall have experience in college athletics, two shall have experience in high school athletics, and three shall have experience counseling professional athletes with regard to legal or financial matters. Under the provisions of the bill, the board has the power to: review the qualifications of applicants for registration; issue and renew registrations; and refuse to grant, or suspend, or revoke the registration of an athlete agent if the athlete agent has violated any provision of section 8 of P.L.1978, c.73 (C.45:1-21), has engaged in conduct involving certain civil or criminal offenses, or which violates from a standard requiring proof to the satisfaction of the board, to a standard of proof which requires the rules of the National Collegiate

Athletic Association (NCAA) or the New Jersey State Interscholastic Athletic Association governing student-athletes and their relationship with athlete agents. The standard of proof for the board's revocation, suspension or refusal to grant a registration to an athlete agent requires a showing by a preponderance of the evidence.

Athlete agents are required to deposit a surety bond in the sum of \$100,000 with the board. A certificate from an insurance carrier stating that malpractice coverage in the minimum amount of \$500,000 is in place, a certificate of deposit in the amount of \$100,000 payable to the board or a savings account in the amount of \$100,000 assigned to the board shall be considered equivalent to the surety bond.

The bill further provides that all agent contracts to be utilized by athlete agents shall be on a form approved by the board and requires that each contract contain a notice, in at least ten-point type, stating that the athlete forfeits his eligibility to participate in intercollegiate athletics by entering into an agent contract. The bill provides that the athlete agent's fee may be negotiated between the parties. If the athlete agent is the recipient of the athlete's salary, a trust fund must be established. The bill requires that the athlete agent deposit any other revenue of the athlete into the trust fund. The address of the trust fund is to be provided to the board. If an athlete agent collects a fee from an athlete for the purpose of obtaining employment for the athlete and the athlete fails to procure such employment, the fee of the athlete agent is limited to reasonable out-of-pocket expenses and, if the athlete agent received a signing bonus, the athlete agent may be entitled to a fee negotiated between the parties.

No athlete agent may sell, transfer or give away any interest in the profits of the athlete agent without providing written notice to the board. This notice also shall be sent to the athlete. The bill requires that the person to whom the interest or right to participate is given have an interest in or be involved in the sport or sports in which the athlete or athletes whose interests have been transferred participate.

An athlete agent must not have an interest in any entity which is directly involved in the same sport as an athlete with whom he has a contract. When advising a client regarding investment of funds, an athlete agent must disclose any ownership interest that he has in any entity used by him in giving such advice and any commissions or fees he may receive as a result of such investments. This disclosure shall be made to the athlete and to the board. An athlete agent is prohibited from dividing fees with a professional sports league or franchise or paying an employee of a university or educational institution for the referral of clients.

Athlete agents would be subject to the provisions of the uniform enforcement act for professional boards, P.L.1978, c.73 (C.45:1-14 et seq.).

The bill also requires athlete agents to comply with all

requirements of the State "Uniform Securities Law (1967)," P.L.1967, c.93 (C.49:3-47 et seq.), if athlete agents act as investment advisors or broker-dealers as defined in that law.

This bill further provides that no employee of a union or players' association connected with a professional sports league shall own or participate in any of the revenues of an athlete agent.

This bill was pre-filed for introduction in the 1996 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.