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108–114

UNITED STATES OLYMPIC COMMITTEE REFORM ACT OF 2003

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1404

JULY 28 (legislative day, JULY 21), 2003.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, submitted the following

R E P O R T

[To accompany S. 1404]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1404) to amend the Ted Stevens Olympic and Amateur Sports Act, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

S. 1404 would amend the Ted Stevens Olympic and Amateur Sports Act (36 U.S.C. chapter 2205) to make significant improvements to the governance structure of the United States Olympic Committee (USOC) by reducing the size of the current board of directors and by creating an assembly of USOC stakeholders. Unlike the current governance structure, which features multiple lines of authority, the structure promulgated by S. 1404 would designate the board as the primary governing body of the USOC, and it would provide that a chief executive officer (CEO) would carry out the USOC's policies and run its day-to-day operations. The bill is intended to allow the USOC to operate more effectively within a more logical and transparent structure.

In addition, the bill would maintain the authority of athletes and national governing bodies in the operation of the USOC, require increased financial transparency, and provide whistle-blower protection for USOC employees. The legislation also would require the new USOC Board to hire an ethics officer, to establish a process for investigating and taking action on ethics violations, to implement conflict of interest policies, and to make the bidding process

more transparent for American cities that bid to host the Olympics. This bill also would streamline the organization to allow a larger percentage of USOC revenue to be dedicated for the support of athletes.

BACKGROUND AND NEEDS

Congress formed the United States Olympic Association (USOA) in 1950 under the "Act to Incorporate the United States Olympic Association." In 1964, the USOA was modified and became the USOC. Additional modifications to the USOC resulted from a study conducted by President Gerald Ford's Commission on Olympic Sports (Ford Commission). From 1975 to 1977, the Ford Commission evaluated each Olympic sport and determined how to correct factional disputes between the sports. Senator Stevens, who served on the Ford Commission, sponsored what later became known as the Ted Stevens Olympic and Amateur Sports Act, which was enacted in 1978 (the Act). The Act named the USOC as the central coordinating organization for athletes and sports of the Olympic and Pan-American Games.

In its current form, the USOC performs a variety of functions. It provides financial, educational, training, and medical support for Olympic athletes. The USOC receives no permanent funding from the government. Though the 1978 charter granted the USOC several million dollars in seed money, the funds were never appropriated.[1] Thus, the USOC supports its activities primarily through corporate sponsorship and licensing agreements for the rights to broadcast Olympic events. The USOC's current annual revenue is approximately $125 million.

The USOC is often criticized for being an unwieldy bureaucracy with a board of directors comprised of 124 members, and for being the subject of too many scandals. Some examples of scandals include, in 1980, 25 athletes sued the USOC for boycotting the 1980 Games, claiming that the USOC had violated their constitutional rights. In the early 1990s, the Committee was accused of buying out two USOC officials in order to hire a new USOC executive director. In 1991, the resignation of then-USOC President Robert Helmick forced the USOC's special counsel to admit certain ethical problems with Helmick's leadership. And, in an effort to secure the selection to host the 2002 Winter Games in Salt Lake City, Utah, local organizing committee members were accused of taking bribes.

Earlier this year, the USOC was again the subject of public embarrassment when then-USOC CEO Lloyd Ward became the subject of a USOC Ethics Committee investigation for a possible conflict-of-interest violation. The investigation was rumored to be the result of tension between Mr. Ward and the former USOC president, Marty Mankamyer. The Ethics Committee determined that Mr. Ward (a former CEO of Maytag) had committed two "technical violations" of the USOC's ethics code, and indicated to the Executive Committee that the problems could have been remedied through timely ethical compliance counseling. In the end, it was the Executive Committee that decided that the only punitive action

[1] In 1981, the USOC did receive a one-time appropriation from Congress of $10 million to compensate the USOC for lost revenue caused by the United States' boycott of the 1980 Olympic Games in Moscow.

to be taken against Mr. Ward would be the reduction of Mr. Ward's annual bonus by several hundred thousand dollars. In an act of protest of the Ethics Committee's decision, Executive Committee member Brian Derwin, Chief Ethics Compliance Officer, Patrick Rodgers, and three members of the 10-person Ethics Committee resigned their volunteer posts. Less than one month later, Ms. Mankamyer succumbed to intense USOC pressure to resign. The same pressure forced Lloyd Ward to resign on March 1, 2003.

SUMMARY OF PROVISIONS

S. 1404 would amend the Act to—

(1) reduce the size of the existing USOC board of directors from 124 members to nine elected members, five of whom would be independent, two representatives of the Athletes Advisory Council (AAC), and two representatives of the National Governing Bodies Council (NGBC) (in addition, the speaker of a newly-formed assembly and the U.S. members of the International Olympic Committee (IOC) would serve on the board as ex officio members);

(2) designate the board as the principal governing body of the USOC;

(3) require that the board appoint a chief executive officer to carry out the policies and priorities of the USOC;

(4) require that the board establish four standing committees of the board (audit, compensation, ethics, and nominating and governance);

(5) create an assembly consisting of the many USOC stakeholders as provided in section 220504 of the Act, including a maximum of three individuals who represented the United States at the Olympics not within the preceding 10 years;

(6) require that the assembly have authority as provided by the board to determine matters pertaining to the Olympic Games;

(7) require that the assembly elect a speaker;

(8) require the board to establish whistleblower procedures for the treatment of complaints received by the USOC, as well as procedures to protect employees from retaliation for submitting a complaint;

(9) modify the existing ombudsman function;

(10) increase the operational and financial transparency of the USOC by requiring the USOC to report Congress and the President on a biennial basis;

(11) provide basic ethics and compliance guidance to the USOC ethics committee; and

(12) allow the National Senior Games Association of Baton Rouge, Louisiana, to use the words "Senior Olympics" to promote national athletic competition among senior citizens.

LEGISLATIVE HISTORY

The Senate Commerce Committee held a full Committee hearing on January 29, 2003, to examine the aforementioned leadership scandal that had attracted negative publicity for the USOC that ultimately led to the resignations of the USOC's President and CEO. Following the first hearing, the USOC Executive Committee

formed a Governance and Ethics Review Task Force (Task Force) to analyze the governance structure of the organization. Shortly thereafter, the Commerce Committee held another hearing on February 13, 2003, to examine the current organizational structure and culture of the USOC, and to consider possible reform measures needed to ensure that it operates more effectively and efficiently.

Following the Committee hearings, Senators McCain, Stevens, and Campbell sent a letter dated February 27, 2003, to the USOC acknowledging the existence of the Task Force, but nevertheless encouraging the organization to create an independent commission to review the USOC's governance structure. As requested, on March 3, 2003, the USOC formed the Independent Commission on the Reform on the United States Olympic Committee (Independent Commission).

On June 24, 2003, Senator McCain chaired a third full Committee oversight hearing concerning reform of the USOC. The purpose of the June 24 hearing was to examine the report of the Independent Commission—released on June 19, 2003—in furtherance of the Committee's efforts to restructure the USOC. At the hearing, the Committee heard testimony from the members of the Independent Commission regarding their deliberations and recommendations. Also appearing before the Committee were members of the USOC Task Force,[2] as well as individuals who represent significant constituencies within the current USOC structure that are affected by the findings and recommendations of the Independent Commission.

On July 15, 2003, Senators McCain and Stevens introduced the United States Olympic Committee Reform Act of 2003 (S. 1404), and on June 17, 2003, the Committee met in open executive session to consider the bill. The Committee adopted an amendment to S. 1404 offered by Senator Hollings that outlines the responsibilities and policies of the new USOC ethics committee. In addition, the Committee adopted an amendment offered by Senator Breaux that would authorize the National Senior Games Association of Baton Rouge, Louisiana, to use the words "Senior Olympics" to promote national athletic competition among senior citizens. S. 1404 was adopted, as amended, and the bill was ordered to be reported as amended by voice vote.

S. 1404 is intended to establish a new governance structure for the USOC. The bill is not intended to be entirely inclusive with respect to how Congress expects the organization to function. For the purpose of carrying out the requirements of S. 1404 and ensuring that the USOC proceeds in accordance with Congressional intent, the Committee recommends that the organization seek guidance from the findings and recommendations of the Independent Commission.[3]

Specifically, the Committee intends the new USOC board to pay particular attention to those aspects of the Independent Commis-

[2] The Task Force released its report on June 20, 2003.

[3] The Committee believes that the Independent Commission's report is compelling and captures well the essence of the changes needed to restore the credibility of the USOC. The Committee applauds the Independent Commission members for their service to the United States Olympic movement and the Congress. Through their work, the Independent Commission members demonstrated their concern and devotion for the future of the USOC. Additionally, the Committee commends the USOC for convening the Task Force, the efforts of which served useful to the Independent Commission, Congress, and, generally, the process of reform.

sion's report dealing with the following: the development of a mission statement that more appropriately reflects the shared objectives of the USOC; the working relationship between the chair of the board and the CEO; the frequency and manner with which the board and assembly should convene; the fiduciary responsibilities of board members; the qualifications for independent board members, including standards for "independence"[4]; disclosure obligations of directors and other USOC officials necessary to avoid conflicts of interest; the transition from the existing to the new USOC board; the responsibilities of the new standing committees; the composition of the assembly and how its members are selected and removed; how the assembly functions; the role of the speaker of the assembly; what USOC officials should constitute the United States delegation to the Olympic Games; the relationship between the board and the assembly; a clear line of authority of the board (not the assembly) over staff; the role and authority of the CEO; an adherence to the principles of the Sarbanes-Oxley Act with respect to financial and ethical transparency; compliance with the IOC Charter; the need for the USOC to monitor the governance practices of the national governing bodies; the need for national governing bodies to make every effort to incorporate Paralympic and disabled athletes into their governing body structures; and such other portions of the report that are not inconsistent with S. 1404.

In addition, the Committee remains very concerned over testimony that detailed the amount of revenue that has been devoted by the USOC during the past for non-athlete-related purposes. The Committee urges the USOC to be mindful when promulgating its budget and reimbursement policies of the fact that each dollar dedicated to the travel and other expenses of its members is a dollar that is not used for the development of amateur athletes. To that end, the USOC should review existing expense reimbursement policies, including the treatment, or any inappropriate or excessive use, of value-in-kind contributions.

It also has been brought to the attention of the Committee that all too often in the past the USOC has been seen by stakeholders as merely a source of funding. The common objectives of the USOC have been overshadowed by the parochial interests of the many stakeholders. The Committee strongly encourages members of the USOC's board of directors, as well as all USOC stakeholders, including volunteers, to put the interests of the USOC above their own individual interests.

The Committee understands that existing provisions of the USOC Constitution require at least 90 days advanced notice to the current CEO of any proposed amendment to the USOC Constitution and Bylaws. The Committee finds that this existing notice requirement would impede the implementation of S. 1404. However, the Committee urges the board of directors to take appropriate action to ensure timely implementation of the requirements of S. 1404.

While the Committee firmly believes S. 1404 to be in compliance with the IOC Charter, the new USOC board of directors may mod-

[4] For the purposes of selecting independent directors for the new USOC board, the initial nominating and governance committee designated in S. 1404 should consult the definition of an "independent director" as set forth in the Independent Commission's report on pages 31-33.

ify, if necessary, the voting authority of the assembly to ensure such compliance.

ESTIMATED COSTS

In compliance with subsection (a)(3) of paragraph 11 of rule XXVI of the Standing Rules of the Senate, the Committee states that, in its opinion, it is necessary to dispense with the requirements of paragraphs (1) and (2) of that subsection in order to expedite the business of the Senate.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

There is no significant change in the number of persons covered under the legislation.

ECONOMIC IMPACT

The economic impact of this legislation is expected to be minimal.

PRIVACY

The impact on the personal privacy of the persons covered by this legislation is expected to be minimal.

PAPERWORK

The impact on paperwork is expected to be minimal.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title.

This section would designate S. 1404 as the "United States Olympic Committee Reform Act".

Section 2. Findings.

This section would provide congressional findings that: there is widespread loss of confidence in the USOC; confidence in the USOC needs to be restored; confusion exists regarding the USOC's primary purpose and priorities; the current governance structure of the USOC is dysfunctional; the corporate governance debate in the United States is relevant to the USOC's governance issues; and there is no clear line of authority between the USOC's volunteers and its paid staff.

Section 3. Amendment of Ted Stevens Olympic and Amateur Sports Act.

This section would provide that all references within this bill to an amendment to, or repeal of, a section or other provision, shall be considered to be made to the Act (36 U.S.C. 220501 et seq.).

Section 4. Governance of the United States Olympic Committee.

Subsection 4(a) of this section would amend the Act by adding to it a new subchapter III titled "Governance," containing new sections 220541 through 220544, as follows:

§ 220541. Board of directors

New section 220541(a) would provide that the board of directors of the USOC would be the governing body of the USOC and the board would be responsible for establishing the policies and priorities of the USOC. This subsection also would provide that the board would have full authority to manage the affairs of the corporation.

New section 220541(b) would provide that the board would consist of nine elected members, and certain ex officio members. Of these elected directors, five directors would be independent as defined in the corporation's constitution and bylaws, two directors would be from among those nominated by the AAC, and two directors would be from among those nominated by the NGBC. The ex officio members of the board are to include both the speaker of the assembly and the IOC members from the United States.

New section 220541(c) would provide that the term of office for an elected director of the board would be four years. Directors would serve no more than an aggregate of six years, with the exception of a director who is elected to chair the board after completing a four-year term. In such instance, the chair of the board would be eligible to serve an additional two years to complete his or her term as chair. This subsection would provide that the first elected directors would serve staggered terms as provided in this subsection. This subsection also would provide that the speaker of the assembly would serve as a non-voting ex officio member of the board.

New section 220541(d) would provide that each elected director would have one vote on all matters on which the board votes. This subsection would provide that each voting ex officio member of the board would have one vote on matters on which ex officio members vote, and ex officio votes would be weighted such that, in the aggregate, the votes of all ex officio members are equal to the vote of one elected director. This subsection also would provide that in the event of a tie vote of the board, the vote of the chair would break the tie. In addition, the board could not take action in the absence of a quorum, which would consist of seven members, not less than three of whom must be independent directors.

New section 220541(e) would require that the board elect a chair to preside at all meetings of the board and perform other duties as prescribed in the USOC's constitution and bylaws. This subsection would prohibit any individual from holding the position of chair of the board for more than four years.

New section 220541(f) would require the board to establish four standing committees: an audit committee; compensation committee; ethics committee; and nominating and governance committee. The compensation committee would consist of three elected board members. The remaining committees would consist of three independent directors, one director nominated and elected from the AAC, and one director nominated and elected from the NGBC. This subsection would provide that the board could establish additional

committees, subcommittees, and task forces as may be necessary or appropriate.

New section 220541(g) would require that the nominating and governance committee recommend candidates to fill vacancies on the board as provided in the constitution and bylaws of the USOC. For each vacancy to be filled by a nominee of the AAC or NGBC, the AAC or NGBC would recommend three individuals to the nominating and governance committee, which would nominate one of the three individuals to the board. This subsection would require that members of the board who also are members of the nominating and governance committee recuse themselves from the nominating and recommendation process. This subsection also would provide that the board would elect directors from the candidates proposed by the nominating and governance committee.

§ 220542. Assembly

New section 220542(a) would provide that the assembly would be a forum for all stakeholders of the corporation, and would serve an advisory function only, except that the assembly would have the right to vote on and have ultimate authority to decide matters pertaining to the Olympic Games. This subsection also would provide that the board would determine whether a matter pertains to the Olympic Games and that the board's determination of such matter would be binding. Pursuant to this subsection, the assembly would convene annually in meetings open to the public. The board would be responsible for establishing a budget for the assembly while being mindful to minimize costs.

New section 220542(b) would provide that the assembly would consist of the representatives of constituencies provided in section 220504 of the Act, as well as the IOC members from the United States, and not more than three individuals who represented the United States at the Olympics not within the preceding 10 years. This subsection would require that amateur athletes constitute not less than 20 percent of the assembly members.

New section 220542(c) would require that representatives of the national governing bodies constitute not less than 51 percent of the voting power of the assembly. This subsection also would require that amateur athletes constitute not less than 20 percent of the voting power of the assembly.

New section 220542(d) would provide that the speaker of the assembly would be a voting member of the assembly who is elected by the members of the assembly. This subsection would limit the term of the speaker to one four-year term. This subsection would provide that the speaker would preside at all assembly meetings and serve as an ex officio member of the board of directors. Unless specified otherwise by the board, the speaker would have no other duties or powers.

§ 220543. Chief executive officer

New section 220543(a) would provide that the corporation would have a CEO who could not be a member of the board. The CEO would be required to be selected by, and report to, the board. This subsection would provide that the CEO would fill senior management positions with the approval of the board.

New section 220543(b) would provide that the CEO would manage USOC staff functions, and the day-to-day affairs and business operations of the USOC. This subsection would require that the CEO implement the mission and policies of the USOC, as determined by the board.

§ 220544. Whistleblower procedure and protections

This new section would require the board to establish procedures for the receipt, retention, and treatment of complaints received by the USOC regarding accounting, auditing, or ethical matters. This section also would require the board to establish procedures to protect against retaliation by any officer, employee, director, or member of the corporation for submitting a complaint pursuant to this section.

§ 220545. Ethics and compliance.

This new section would require the USOC ethics committee to oversee all matters relating to the ethics policy and practices of USOC employees, board members, and volunteers. In addition, the ethics committee would oversee the paid and volunteer leadership staff of a bid city organization with respect to the bid process. This section also would require that the new USOC board employ a chief ethics officer to implement the organization's ethics policy.

This section includes a list of policy areas that would be required to be included in the USOC ethics policy, including a conflict-of-interest policy; an anti-discrimination policy; a workplace harassment policy; a gift, travel reimbursement, honorarium and outside income policy; a financial proprietary policy, including a prohibition on loans to USOC officers and employees; a bid city policy; a policy for sanctions and penalties for violations; a reporting and investigation policy; and a policy to ensure due process for those accused of ethics violations. The new section also would require a city bidding to host the Olympic Games to sign a statement acknowledging that it read the USOC ethics policy and agrees to abide by its rules.

Subsection 4(b) of new subchapter III would provide that members of the existing USOC board of directors would continue to serve until a new board has been elected.

Subsection 4(c) of new subchapter III would establish a temporary nominating and governance committee to serve until the initial board has been elected and has taken office. This subsection would require that this nominating and governance committee consist of one individual from the AAC, one individual from the NGBC, one individual from the existing public-sector members, one individual from the Independent Commission established by the USOC in March 2003 (who shall be chair of the temporary committee), and one individual from the Task Force established by the USOC in February 2003. This subsection further would provide that this temporary committee would elect an initial board of directors and elect one of the independent members of the board as chair.

Subsection 4(d) of new subchapter III would provide conforming amendments to ensure that athletes are adequately represented in each governance body of the USOC, and to require that the board adopt and amend the constitution and bylaws of the USOC, consistent with this chapter. This subsection also would require that

the USOC ombudsman report directly to the board, and that the board would consult with the AAC in determining whether to hire or not hire a particular individual to serve as ombudsman.

Section 5. Reports.

This section would require that on a biennial basis the USOC transmit simultaneously to the President, and to each House of Congress, a detailed report of its operations for the preceding two years. It also would require that the report contain annual financial statements audited in accordance with generally accepted accounting principles by an independent certified public accountant, and certified by the CEO and chief financial officer of the USOC for accuracy and completeness. In addition, this section would require that the USOC's report be posted free of charge on its website or other similar medium that is widely available to the public.

Section 6. Senior Olympics.

This section would authorize the National Senior Games Association of Baton Rouge, Louisiana, to use the words "Senior Olympics" to promote national athletic competition among senior citizens.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 36,

UNITED STATES CODE

CHAPTER 2205. UNITED STATES OLYMPIC COMMITTEE

SUBCHAPTER I. CORPORATION

Sec.
220501. Definitions
220502. Organization
220503. Purposes
220504. Membership
220505. Powers
220506. Exclusive right to name, seals, emblems, and badges
220507. Restrictions
220508. Headquarters, principal office, and meetings
220509. Resolution of disputes
220510. Service of process
220511. Report
220512. Complete teams

SUBCHAPTER II. NATIONAL GOVERNING BODIES

220521. Recognition of amateur sports organizations as national governing bodies
220522. Eligibility requirements
220523. Authority of national governing bodies
220524. General duties of national governing bodies
220525. Granting sanctions for amateur athletic competitions
220526. Restricted amateur athletic competitions
220527. Complaints against national governing bodies

220528. Applications to replace an incumbent national governing body
220529. Arbitration of corporation determinations.
SUBCHAPTER III. GOVERNANCE
220541. Board of directors
220542. Assembly
220543. Chief executive officer
220544. Whistleblower procedures and protections
220545. Ethics and compliance

SUBCHAPTER I. CORPORATION

* * * * * * *

§ 220504. Membership

(a) ELIGIBILITY.—Eligibility for membership in the corporation is as provided in the constitution and bylaws of the corporation.

(b) REQUIRED PROVISIONS FOR REPRESENTATION.—In its constitution and bylaws, the corporation shall establish and maintain provisions with respect to its governance and the conduct of its affairs for reasonable ⟦representation of—⟧ *representation on its board of directors and in its assembly of—*

(1) amateur sports organizations recognized as national governing bodies and paralympic sports organizations in accordance with section 220521 of this title, including through provisions which establish and maintain a National Governing Bodies' Council composed of representatives of the national governing bodies and any paralympic sports organizations and selected by their boards of directors or such other governing boards to ensure effective communication between the corporation and such national governing bodies and paralympic sports organizations;

(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States in international amateur athletic competition within the preceding 10 years, including through provisions which—

(A) establish and maintain an Athletes' Advisory Council composed of, and elected by, such amateur athletes to ensure communication between the corporation and such amateur athletes; and

⟦(B) ensure that the membership and voting power held by such amateur athletes is not less than 20 percent of the membership and voting power held in the board of directors of the corporation and in the committees and entities of the corporation;⟧

'(B) ensure that—

'(i) the membership and voting power of such amateur athletes is not less than 20 percent of the membership and voting power of each committee, subcommittee, working group, or other subordinate decision-making group, of the corporation; and

'(ii) the voting power held by members of the board of directors who were nominated by the Athlete's Advisory Council is not less than 20 percent of the total voting power held in the board of directors;

(3) amateur sports organizations that conduct a national program or regular national amateur athletic competition in 2 or

more sports that are included on the program of the Olympic Games, the Paralympic Games, or the Pan-American Games on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition; and

(4) individuals not affiliated or associated with any amateur sports organization who, in the corporation's judgment, represent the interests of the American public in the activities of the corporation

§ 220505. Powers

(a) CONSTITUTION AND BYLAWS.—The corporation shall adopt a constitution and [bylaws.] *bylaws consistent with this chapter, as determined by the board of directors. The board of directors shall adopt and amend the constitution and bylaws of the corporation, consistent with this chapter.* The corporation may amend its constitution only if *the board of directors proposes and approves by majority vote such an amendment and* the corporation—

(1) publishes, in its principal [publication,] *publication and on its website,* a notice of the proposed amendment, including—

(A) the substantive terms of the amendment;

(B) the time and place of the corporation's regular meeting at which adoption of the amendment is to be decided; and

(C) a provision informing interested persons that they may submit materials as authorized in clause (2) of this subsection; and

(2) gives all interested persons an opportunity to submit written comments and information for at least 60 days after publication of notice of the proposed amendment and before adoption of the amendment.

(b) GENERAL CORPORATE POWERS.—The corporation may—

(1) adopt and alter a corporate seal;

(2) establish and maintain offices to conduct the affairs of the corporation;

(3) make contracts;

(4) accept gifts, legacies, and devises in furtherance of its corporate purposes;

(5) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(7) publish a magazine, newspaper, and other publications consistent with its corporate purposes;

(8) approve and revoke membership in the corporation;

(9) sue and be sued, except that any civil action brought in a State court against the corporation and solely relating to the corporation's responsibilities under this Act shall be removed, at the request of the corporation, to the district court of the United States in the district in which the action was brought, and such district court shall have original jurisdiction over the action without regard to the amount in controversy or citizenship of the parties involved, and except that neither this para-

graph nor any other provision of this chapter shall create a private right of action under this chapter; and

(10) do any other act necessary and proper to carry out the purposes of the corporation.

(c) POWERS RELATED TO AMATEUR ATHLETICS AND THE OLYMPIC GAMES.—The corporation may—

(1) serve as the coordinating body for amateur athletic activity in the United States directly related to international amateur athletic competition;

(2) represent the United States as its national Olympic committee in relations with the International Olympic Committee and the Pan-American Sports Organization and as its national Paralympic committee in relations with the International Paralympic Committee;

(3) organize, finance, and control the representation of the United States in the competitions and events of the Olympic Games, the Paralympic Games, and the Pan-American Games, and obtain, directly or by delegation to the appropriate national governing body, amateur representation for those games;

(4) recognize eligible amateur sports organizations as national governing bodies for any sport that is included on the program of the Olympic Games or the Pan-American Games, or as paralympic sports organizations for any sport that is included on the program of the Paralympic Games;

(5) facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes that involve any of its members and any amateur athlete, coach, trainer, manager, administrator, official, national governing body, or amateur sports organization and that arise in connection with their eligibility for and participation in the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition, the Pan-American world championship competition, or other protected competition as defined in the constitution and bylaws of the corporation; and

(6) provide financial assistance to any organization or association, except a corporation organized for profit, in furtherance of the purposes of the corporation.

§ 220509. Resolution of disputes

(a) GENERAL.—The corporation shall establish and maintain provisions in its constitution and bylaws for the swift and equitable resolution of disputes involving any of its members and relating to the opportunity of an amateur athlete, coach, trainer, manager, administrator, or official to participate in the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition, or other protected competition as defined in the constitution and bylaws of the corporation. In any lawsuit relating to the resolution of a dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, or the Pan-American Games, a court shall not grant injunctive relief against the corporation within 21 days before the beginning of such games if the corporation, after consultation with the chair of the Athletes' Advisory Council, has provided a sworn statement in writing executed by an officer of the corporation to such

court that its constitution and bylaws cannot provide for the resolution of such dispute prior to the beginning of such games.

(b) OMBUDSMAN.—(1) The corporation shall hire and provide salary, benefits, and administrative expenses for an ombudsman for athletes, who shall—

(A) provide independent advice to athletes at no cost about the applicable provisions of this chapter and the constitution and bylaws of the corporation, national governing bodies, a paralympic sports organizations, international sports federations, the International Olympic Committee, the International Paralympic Committee, and the Pan- American Sports Organization, and with respect to the resolution of any dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition or other protected competition as defined in the constitution and bylaws of the corporation;

(B) assist in mediating any such disputes; and

(C) report to *the board of directors and* the Athletes' Advisory Council on a regular basis.

(2)(A) The procedure for hiring the ombudsman for athletes shall be as follows:

(i) The Athletes' Advisory Council shall provide the ⟦corporation's executive director⟧ *board of directors* with the name of one qualified person to serve as ombudsman for athletes.

⟦(ii) The corporation's executive director shall immediately transmit the name of such person to the corporation's executive committee.

⟦(iii) The corporation's executive committee shall hire or not hire such person after fully considering the advice and counsel of the Athletes' Advisory Council. If there is a vacancy in the position of the ombudsman for athletes, the nomination and hiring procedure set forth in this paragraph shall be followed in a timely manner.⟧

(ii) The board of directors shall hire or not hire such person after fully considering the advice and counsel of the Athlete's Advisory Council.

(B) The ⟦corporation⟧ *board of directors* may terminate the employment of an individual serving as ombudsman for athletes only if—

(i) the termination is carried out in accordance with the applicable policies and procedures of the corporation;

(ii) the termination is initially recommended ⟦to the corporation's executive committee by either the corporation's executive director⟧ *by 1 or more members of the board of directors* or by the Athletes' Advisory Council; and

(iii) the ⟦corporation's executive committee⟧ *board of directors* fully considers the advice and counsel of the Athletes' Advisory Council prior to deciding whether or not to terminate the employment of such individual.

§ 220511. Report

⟦(a) SUBMISSION TO PRESIDENT AND CONGRESS.—The corporation shall, on or before the first day of June, 2001, and every fourth year thereafter, transmit simultaneously to the President and to

each House of Congress a detailed report of its operations for the preceding 4 years, including—

(1) a complete statement of its receipts and expenditures;]

(a) BIENNIAL REPORT.—On or before the first day of June of every other year, the corporation shall transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding 2 years, including—

(1) annual financial statements—

(A) audited in accordance with generally accepted accounting principles by an independent certified public accountant; and

(B) certified by the chief executive officer and the chief financial officer of the corporation as to their accuracy and completeness;

(2) a comprehensive description of the activities and accomplishments of the corporation during such [4-year period;] *2-year period;*

(3) data concerning the participation of women, disabled individuals, and racial and ethnic minorities in the amateur athletic activities and administration of the corporation and national governing bodies; and

(4) a description of the steps taken to encourage the participation of women, disabled individuals, and racial minorities in amateur athletic activities.

(b) AVAILABILITY TO PUBLIC.—The corporation shall make copies of the report available to interested persons *free of charge on its website (or via a similar medium that is widely available to the public), and otherwise* at a reasonable cost.

SUBCHAPTER II. NATIONAL GOVERNING BODIES

§ 220522. Eligibility requirements

(a) GENERAL.—An amateur sports organization is eligible to be recognized, or to continue to be recognized, as a national governing body only if it—

(1) is incorporated under the laws of a State of the United States or the District of Columbia as a not-for-profit corporation having as its purpose the advancement of amateur athletic competition;

(2) has the managerial and financial capability to plan and execute its obligations;

(3) submits—

(A) an application, in the form required by the corporation, for recognition as a national governing body;

(B) a copy of its corporate charter and bylaws; and

(C) any additional information considered necessary or appropriate by the corporation;

(4) agrees to submit to binding arbitration in any controversy involving—

(A) its recognition as a national governing body, as provided for in section 220529 of this title, upon demand of the corporation; and

(B) the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition, upon demand of the corpora-

tion or any aggrieved amateur athlete, coach, trainer, manager, administrator or official, conducted in accordance with the Commercial Rules of the American Arbitration Association, as modified and provided for in the corporation's constitution and bylaws, except that if the Athletes' Advisory Council and National Governing Bodies' Council do not concur on any modifications to such Rules, and if the [corporation's executive committee] *board of directors* is not able to facilitate such concurrence, the Commercial Rules of Arbitration shall apply unless at least two-thirds of the corporation's board of directors approves modifications to such Rules;

(5) demonstrates that it is autonomous in the governance of its sport, in that it—

(A) independently decides and controls all matters central to governance;

(B) does not delegate decision-making and control of matters central to governance; and

(C) is free from outside restraint;

(6) demonstrates that it is a member of no more than one international sports federation that governs a sport included on the program of the Olympic Games or the Pan-American Games;

(7) demonstrates that its membership is open to any individual who is an amateur athlete, coach, trainer, manager, administrator, or official active in the sport for which recognition is sought, or any amateur sports organization that conducts programs in the sport for which recognition is sought, or both;

(8) provides an equal opportunity to amateur athletes, coaches, trainers, managers, administrators, and officials to participate in amateur athletic competition, without discrimination on the basis of race, color, religion, sex, age, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring the individual ineligible to participate;

(9) is governed by a board of directors or other governing board whose members are selected without regard to race, color, religion, national origin, or sex, except that, in sports where there are separate male and female programs, it provides for reasonable representation of both males and females on the board of directors or other governing board;

(10) demonstrates, based on guidelines approved by the corporation, the Athletes' Advisory Council, and the National Governing Bodies' Council, that its board of directors and other such governing boards have established criteria and election procedures for and maintain among their voting members individuals who are actively engaged in amateur athletic competition in the sport for which recognition is sought or who have represented the United States in international amateur athletic competition within the preceding 10 years, that any exceptions to such guidelines by such organization have been approved by the corporation, and that the voting power held by such individuals is not less than 20 percent of the voting power held in its board of directors and other such governing boards;

(11) provides for reasonable direct representation on its board of directors or other governing board for any amateur sports organization that—

(A) conducts a national program or regular national amateur athletic competition in the applicable sport on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition; and

(B) ensures that the representation reflects the nature, scope, quality, and strength of the programs and competitions of the amateur sports organization in relation to all other programs and competitions in the sport in the United States;

(12) demonstrates that none of its officers are also officers of any other amateur sports organization recognized as a national governing body;

(13) provides procedures for the prompt and equitable resolution of grievances of its members;

(14) does not have eligibility criteria related to amateur status or to participation in the Olympic Games, the Paralympic Games, or the Pan-American Games that are more restrictive than those of the appropriate international sports federation; and

(15) demonstrates, if the organization is seeking to be recognized as a national governing body, that it is prepared to meet the obligations imposed on a national governing body under sections 220524 and 220525 of this title.

(b) RECOGNITION OF PARALYMPIC SPORTS ORGANIZATIONS.—For any sport which is included on the program of the Paralympic Games, the corporation is authorized to designate, where feasible and when such designation would serve the best interest of the sport, and with the approval of the affected national governing body, a national governing body recognized under subsection (a) to govern such sport. Where such designation is not feasible or would not serve the best interest of the sport, the corporation is authorized to recognize another amateur sports organization as a paralympic sports organization to govern such sport, except that, notwithstanding the other requirements of this chapter, any such paralympic sports organization—

(1) shall comply only with those requirements, perform those duties, and have those powers that the corporation, in its sole discretion, determines are appropriate to meet the objects and purposes of this chapter; and

(2) may, with the approval of the corporation, govern more than one sport included on the program of the Paralympic Games.

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SUBCHAPTER III. GOVERNANCE

§ 220541. Board of directors

(a) IN GENERAL.—The board of directors is the governing body of the corporation and shall establish the policies and priorities of the

corporation. The board of directors shall have the full authority to manage the affairs of the corporation.

(b) STRUCTURE OF THE BOARD.—

(1) IN GENERAL.—The board of directors shall consist of 9 elected members and the ex officio members described in paragraph (3).

(2) ELECTED MEMBERS.—The elected directors, elected as provided in subsection (g), are—

(A) 5 independent directors, as defined in the constitution and bylaws of the corporation;

(B) 2 directors elected from among those nominated by the Athletes' Advisory Council, who at the time of nomination meet the specifications of section 220504(b)(2)(B) of this title; and

(C) 2 directors elected from among those nominated by the National Governing Bodies' Council.

(3) EX OFFICIO MEMBERS.—The ex officio members are—

(A) the speaker of the assembly; and

(B) the International Olympic Committee member or members from the United States who are required to be ex officio members of the executive organ of the corporation under the terms of the Olympic Charter.

(c) TERMS OF OFFICE.—

(1) ELECTED DIRECTORS.—The term of office of an elected director shall be 4 years. An individual elected to replace a director who does not serve a full 4-year term shall be elected initially to serve only the balance of the expired term of the member that director replaces. No director shall be eligible for reelection, except a director whose total period of service, if elected, would not exceed 6 years. The chair of the board shall be eligible to serve an additional 2 years as required to complete his or her term as chair.

(2) STAGGERED TERMS.—Notwithstanding paragraph (1), of the directors first elected to the board after the date of enactment of the United States Olympic Committee Reform Act—

(A) 2 of the directors elected under paragraph (2)(A) shall be elected for terms of 2 years;

(B) 3 of the directors elected under paragraph (2)(A) shall be elected for terms of 4 years;

(C) 1 of the directors elected under paragraph (2)(B) shall be elected for a term of 2 years;

(D) 1 of the directors elected under paragraph (2)(B) shall be elected for a term of 4 years;

(E) 1 of the directors elected under paragraph (2)(C) shall be elected for a term of a term of 2 years; and

(F) 1 of the directors elected under paragraph (2)(C) shall be elected for a term of a term of 4 years.

(3) EX OFFICIO MEMBERS.—The speaker of the assembly shall serve as a non-voting ex officio member of the board while holding the position of speaker of the assembly. An International Olympic Committee member shall serve as an ex officio member of the board for so long as the member is a member of that Committee.

(d) VOTING.—

(1) ELECTED MEMBERS.—Each elected director shall have 1 vote on all matters on which the board votes, consistent with the constitution and bylaws of the corporation.

(2) EX OFFICIO MEMBERS.—Each voting ex officio member shall have 1 vote on matters on which the ex officio members vote, consistent with the constitution and bylaws of the corporation, and the votes of the ex officio members shall be weighted such that, in the aggregate, the votes of all voting ex officio members are equal to the vote of one elected director.

(3) TIE VOTES.—In the event of a tie vote of the board, the vote of the chair of the board shall serve to break the tie.

(4) QUORUM.—The board may not take action in the absence of a quorum, which shall be 7 members, of whom at least 3 shall be members described in subsection (b)(2)(A).

(e) CHAIR OF THE BOARD.—The board shall elect 1 of the members described in subsection (b)(2) to serve as chair of the board first elected after the date of enactment of the United States Olympic Committee Reform Act. The chair of the board shall preside at all meetings of the board and have such other duties as may be provided in the constitution and bylaws of the corporation. No individual may hold the position of chair of the board for more than 4 years.

(f) COMMITTEES.—

(1) IN GENERAL.—The board of directors shall establish the following 4 standing committees:

(A) The Audit Committee.

(B) The Compensation Committee.

(C) The Ethics Committee.

(D) The Nominating and Governance Committee.

(2) COMMITTEE MEMBERSHIP.—The Compensation Committee shall consist of 3 board members selected by the board. The Audit Committee, Ethics Committee, and Nominating and Governance Committee shall each consist of—

(A) 3 board members described in subsection (b)(2)(A), selected by the board;

(B) 1 board member described in subsection (b)(2)(B), selected by the board; and

(C) 1 board member described in subsection (b)(2)(C), selected by the board.

(3) ADDITIONAL COMMITTEES.—The board may establish such additional committees, subcommittees, and task forces as may be necessary or appropriate and for which sufficient funds exist.

(g) NOMINATION AND ELECTION.—

(1) IN GENERAL.—The nominating and governance committee shall recommend candidates to the board of directors to fill vacancies on the board as provided in the constitution and bylaws of the corporation. For each vacancy that is to be filled by a nominee of the Athletes' Advisory Council or the National Governing Bodies' Council, the Athletes' Advisory Council or the National Governing Bodies' Council shall recommend 3 individuals to the nominating and governance committee, which shall nominate 1 of the recommended individuals to the board of directors.

(2) RECUSAL OF MEMBERS ELIGIBLE FOR RE-ELECTION.—Any member of the nominating and governance committee who is el-

igible for re-election by virtue of serving for an initial term of less than 2 years shall be recused from participation in the nominating and recommendation process.

(3) BOARD TO ELECT MEMBERS.—Except as provided in section 4(c)(2) of the United States Olympic Committee Reform Act, the board of directors shall elect directors from the candidates proposed by the nominating and governance committee.

§ 220542. Assembly

(a) IN GENERAL.—

(1) FORUM FUNCTION.—The assembly shall be a forum for all stakeholders of the corporation. The assembly shall have an advisory function only, except as otherwise expressly provided in this chapter.

(2) VOTING ON MATTERS RELATING TO THE OLYMPIC GAMES.—The assembly shall have the right to vote on, and shall have ultimate authority to decide, matters relating to the Olympic Games. The board of directors shall determine whether a matter is a question relating to the Olympic Games on which the assembly is entitled to vote. The determination of the board shall be final and binding.

(3) MEETINGS.—The assembly shall convene annually in a meeting open to the public. The board of directors may convene special meetings of the assembly.

(4) ANNUAL BUDGET.—The board of directors shall establish an annual budget for the assembly, as provided in the constitution and bylaws of the corporation. In establishing the budget, the board of directors shall take into account the interest of the corporation in minimizing the costs associated with the assembly.

(b) STRUCTURE OF THE ASSEMBLY.—

(1) IN GENERAL.—The assembly shall consist of—

(A) representatives of the constituencies of the corporation specified in section 220504 of this title (other than former United States Olympic Committee members);

(B) the International Olympic Committee's members for the United States; and

(C) not more than 3 individuals who have represented the United States in an Olympic Games not within the preceding 10 years, selected through a process to be determined by the board of directors in accordance with the constitution and bylaws of the corporation.

(2) AMATEUR ATHLETE REPRESENTATION.—Amateur athletes shall constitute not less than 20 percent of the membership in the assembly.

(c) VOTING.—

(1) REPRESENTATIVES OF THE NATIONAL GOVERNING BODIES.—Representatives of the national governing bodies shall constitute not less than 51 percent of the voting power held in the assembly.

(2) AMATEUR ATHLETES.—Amateur athletes shall constitute not less than 20 percent of the voting power held in the assembly.

(d) SPEAKER OF THE ASSEMBLY.—The speaker of the assembly shall be a member of the assembly (who, as a member, is entitled

to vote) who is elected by the members of the assembly for a 4-year term. An individual may not serve as speaker for more than 4 years. The speaker shall preside at all meetings of the assembly and serve as a non-voting ex officio member of the board of directors as provided in section 220541. The speaker shall have no other duties or powers (other than the right to vote), except as may be expressly assigned by the board of directors.

§ 220543. Chief executive officer

(a) IN GENERAL.—The corporation shall have a chief executive officer who shall not be a member of the board of directors. The chief executive officer shall be selected by, and shall report to, the board of directors, as provided in the constitution and bylaws of the corporation. The chief executive officer shall be responsible, with board approval, for filling other key senior management positions as provided in the constitution and bylaws of the corporation.

(b) DUTIES.—The chief executive officer shall, either directly or by delegation—

(1) manage all staff functions and the day-to-day affairs and business operations of the corporation, including but not limited to relations with international organizations; and

(2) implement the mission and policies of the corporation, as determined by the Board.

§ 220544. Whistleblower procedures and protections

The corporation, through the board of directors, shall establish procedures for—

(1) the receipt, retention, and treatment of complaints received by the corporation regarding accounting, auditing or ethical matters; and

(2) the protection against retaliation by any officer, employee, director or member of the corporation against any person who submits such complaints.

"§ 220545. Ethics and compliance

(a) IN GENERAL.—The ethics committee shall be responsible for oversight of—

(1) all matters relating to ethics policy and practices of the corporation's employees, board members, and volunteers;

(2) officers or directors of a member organization insofar as their activities relate to corporation business; and

(3) paid and volunteer leadership staff of a bid city organization for activities that relate directly to the bid city process.

(b) INTERNAL ETHICS OFFICER.—

(1) IN GENERAL.—The board of directors shall employ and fix the compensation of a chief ethics officer to implement the ethics policy for the corporation.

(2) DUTIES.—The ethics committee shall establish policies and procedures to delineate the duties of the chief ethics officer.

(3) LINE OF AUTHORITY.—

(A) IN GENERAL.—The chief ethics officer shall report to the chief executive officer of the corporation.

(B) CERTAIN PARTIES.—Notwithstanding subparagraph (A), the chief ethics officer shall report to the ethics committee whenever an alleged violation involves—

(i) senior management or directors of the corporation;
(ii) officers or directors of a member organization;
(iii) a bid city; or
(iv) the International Olympic Committee.

(c) ETHICS POLICY.—The ethics committee shall establish an ethics policy for the corporation, subject to the approval of the board of directors, modeled upon the best practices used in corporate and government offices. The policy shall include—

(1) a conflict of interest policy;

(2) an anti-discrimination policy;

(3) a workplace harassment policy;

(4) a gift, travel reimbursement, honorarium, and outside income policy;

(5) a financial propriety policy, including a prohibition on loans to corporation officers and employees;

(6) a bid-city policy which includes a transparent and objective set of criteria published in advance by which the corporation will choose a United States city to submit a bid to the International Olympic Committee for an Olympic games, which adheres in all respects to the rules and ethics guidelines of the Olympic Charter and the International Olympic Committee, and which applies to the leaders and staff of a city, or organizations representing a bid city, that file an official bid with the corporation to host Olympic games;

(7) potential sanctions and penalties for violations of the ethics policy, which may include removal from corporation duties;

(8) a procedure for reporting and investigating potential ethics violations; and

(9) procedures to assure due process for any individual accused of an ethics violation, including—

(A) a timely hearing before the ethics committee;

(B) the right to be represented by counsel; and

(C) access to all documentation and statements that would be used in an ethics proceeding against that individual.

(d) WRITTEN STATEMENT REQUIRED.—All members of the board, employees, and officers, directors of member organizations, and leaders or representatives of United States bid cities must sign a statement that they have read the corporation's ethics policy and agree to abide by its rules.

(e) ETHICS COMMITTEE ADJUDICATION OF VIOLATIONS.—When the ethics committee determines that an individual has violated the corporation's ethics policy, it will report to the Board and may make recommendations for action to be taken.

(f) INVESTIGATION, REPORTING, AND REVIEW PROCEDURES.—The ethics committee shall establish a procedure for the prompt review and investigation of ethics violations, and establish regular reporting and review procedures to document the number and types of complaints or issues brought to the ethics committee and the ethics officer.

(g) OUTSIDE COUNSEL.—The ethics committee may hire outside counsel to conduct investigations, report findings, and make recommendations.

(h) BID CITY DEFINED.—In this section, the term 'bid city' means 1 or more cities, States, regional organizations, or other organiza-

tions that file an official bid with the corporation to be chosen as the site nominated by the United States to the International Olympic Committee to host an Olympic Games.

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