

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: [Am. Sub. H.B. 177](#) **DATE:** **October 23, 2007**

STATUS: **As Enacted – Effective October 25, 2007** **SPONSOR:** **Rep. Blessing**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost in the introduced version; potential minimal local cost in the current version**

CONTENTS: **Allows a person to own or operate two horse racetracks in Ohio, modifies the definition of "slot machine" and "skill-based amusement machine" for purposes of the Gambling Law, creates a limit on the redemption value of prizes associated with skill-based amusement machines, clarifies regulatory authority pertaining to skill-based amusement machines, and declares an emergency**

State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	Potential negligible gain in locally collected court costs	Potential negligible gain in locally collected court costs	Potential negligible gain in locally collected court costs
Expenditures	Potential incarceration cost increase, appears likely to be no more than minimal	Potential incarceration cost increase, appears likely to be no more than minimal	Potential incarceration cost increase, appears likely to be no more than minimal
Victims of Crime/Reparations Fund (Fund 402)			
Revenues	Potential negligible gain in locally collected court costs	Potential negligible gain in locally collected court costs	Potential negligible gain in locally collected court costs
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

- **Administration and enforcement costs.** As of this writing, with regard to the Gambling Law as it pertains to the definition of "slot machine," it is uncertain as to whether the bill will noticeably increase the administrative and enforcement workload and related annual operating costs of the Attorney General.
- **Incarceration expenditures.** It is possible as a result of violations of the bill's criminal prohibition that additional offenders could be sentenced to prison, which may increase the Department of Rehabilitation and Correction's (DRC) annual incarceration costs. It appears, however, that the number of offenders that may be so affected annually as a result of the bill's penalty provision will be relatively small and thus any related potential increase in DRC's annual incarceration costs would likely be no more than minimal. For the purposes of this fiscal analysis, minimal means an estimated cost of less than \$100,000 per year for the state.
- **Court cost revenues.** The bill may generate locally collected state court cost revenues from individuals who engage in skill-based amusement machine prohibited conduct. At this time, it appears that the number of



such individuals will be relatively small statewide, and thus, at most, a negligible amount of additional court cost revenues may be collected and deposited annually to the credit of the state's GRF and the Victims of Crime/Reparations Fund (Fund 402). For the purposes of this fiscal analysis, "negligible" means an estimated revenue gain of less than \$1,000 for either state fund per year.

- **Horse racetracks.** Changes to law pertaining to owning or operating horse racetracks in Ohio appear unlikely to have any direct fiscal effects on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2007	FY 2008	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential gain in court costs and fines, likely to be minimal at most	Potential gain in court costs and fines, likely to be minimal at most	Potential gain in court costs and fines, likely to be minimal at most
Expenditures	Potential increase in criminal justice system costs, likely to be minimal at most	Potential increase in criminal justice system costs, likely to be minimal at most	Potential increase in criminal justice system costs, likely to be minimal at most

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Local criminal justice system expenditures.** It is possible that the bill's changes to the Gambling Law will lead to more alleged violations of that Law, thus creating the potential for additional criminal cases to be processed by county and municipal criminal justice systems. The fiscal impact of that possibility could be to increase local criminal justice system expenditures related to investigating, prosecuting, adjudicating, defending (if the violator is indigent), and sanctioning offenders who violate the Gambling Law. As of this writing, given the appearance that a relatively small number of cases could be created or affected by the bill in any given local jurisdiction, the magnitude of this potential expenditure increase is unlikely to exceed minimal annually for county and municipal criminal justice systems around the state. For the purposes of this fiscal analysis, a minimal expenditure increase means an estimated annual cost of no more than \$5,000 for any affected county or municipal criminal justice system.
- **Local court cost and fine revenues.** As a result of violations of the bill's criminal prohibition, additional court cost and fine revenues may be generated for counties and municipalities. At this time, it appears that the number of criminal cases that will be created or affected by the bill will be relatively small in any given local jurisdiction. Thus, some counties and municipalities may collect, at most, a minimal amount of additional court cost and fine revenues annually. For the purposes of this fiscal analysis, a minimal revenue gain means an estimated annual increase of no more than \$5,000 for any affected county or municipality.
- **Horse racetracks.** Changes to law pertaining to owning or operating horse racetracks in Ohio appear unlikely to have any direct fiscal effects on political subdivisions.

Detailed Fiscal Analysis

Horse racing

Permits issued by the Racing Commission allow holders to conduct horse-racing meetings at the state's seven commercial racetracks as well as at county fairs. Current law (R.C. 3769.07) states "nor shall more than one permit in any one year be granted to the same person, association, trust, or corporation for the holding or conducting of a horse-racing meeting, at more than one race track" in Ohio. The bill would eliminate this restriction but would retain a prohibition on issuing a second permit: "To any corporation having one or more shareholders owning an interest in any other permit issued by the commission for the operation of racing, in the same year, at any other race track" in Ohio; "To any person, association, or trust which owns, or which has any members owning, an interest in any other permit issued by the commission for the operation of racing, in the same year, at any other race track" in Ohio. However, the bill adds the following statement: "Notwithstanding any other provision of this chapter, a person, association, trust, or corporation may own or operate two separate facilities in this state that are conducting horse-racing meetings."

These changes do not appear to have any direct fiscal effects on the state or on political subdivisions. The Racing Commission reviews information on track owners and applications for permits for horse-racing meetings. This bill appears unlikely to result in any incremental costs to the Commission for these reviews. No other direct costs or revenues to the state or to other political subdivisions appear likely to result from this change.

Criminal prohibitions

Under the bill, relative to the state's Gambling Law, exchanging cash or other prohibited items for a prize won by playing a skill-based amusement machine would be a misdemeanor of the first degree and a repeat conviction would be a felony of the fifth degree. For a felony offense, the bill mandates that the maximum fine be imposed.

Under current law, unchanged by the bill, a misdemeanor of the first degree carries a potential fine of up to \$1,000 and/or a jail term of not more than six months, and a felony of the fifth degree carries a potential fine of up to \$2,500 and/or a definite prison term of 6, 7, 8, 9, 10, 11, or 12 months.

State and local criminal justice system expenditures

It is possible that the bill's changes to the Gambling Law will lead to more alleged violations of that Law, thus creating the potential for additional criminal cases to be processed by county and municipal criminal justice systems.¹ The fiscal impact of that possibility could be to increase local criminal justice system expenditures related to investigating, prosecuting, adjudicating, defending (if the violator is indigent), and sanctioning offenders who violate the Gambling Law.

As of this writing, given the appearance that a relatively small number of cases could be created or affected by the bill in any given local jurisdiction, the magnitude of this potential expenditure increase is unlikely to exceed minimal annually for county and municipal criminal justice systems around the state. For the purposes of this fiscal analysis, a minimal expenditure increase means an estimated annual cost of no more than \$5,000 for any affected county or municipal criminal justice system.

As a result of violations of the bill's criminal prohibition, it is also possible that additional offenders may be sentenced to prison, the fiscal effect of which would be to increase the Department of Rehabilitation and Correction's annual incarceration costs. It appears, however, that the number of affected offenders will be relatively small and that any increase in the Department's annual GRF expenditures would be minimal at most. For the purposes of this fiscal analysis, "minimal" means an estimated cost of less than \$100,000 per year for the state.

State and local court cost and fine revenues

As a result of violations of the bill's criminal prohibition, additional court cost and fine revenues may be generated for the state, counties, and municipalities. At this time, it appears that the number of criminal cases that will be created or affected by the bill will be relatively small in any given local jurisdiction. Thus, some counties and municipalities may collect, at most, a minimal amount of additional court cost and fine revenues annually. For the purposes of this fiscal analysis, a minimal revenue gain means an estimated annual increase of no more than \$5,000 for any affected county or municipality.

The amount of additional locally collected state court cost revenues that might be generated for deposit to the credit of the state's GRF and the Victims of Crime/Reparations Fund (Fund 402) will likely be negligible. For the purposes of this fiscal analysis, "negligible" means an estimated revenue gain of less than \$1,000 for either state fund per year.

¹ LSC fiscal staff has based this assumption on a variety of criteria including, but not limited to, recent controversies surrounding the current wording of the statute, various recent Attorney General opinions, and recent legal actions filed in various courts around the state. By amending the current definition of "slot machine," it is presumed that the statute will become easier to enforce, therefore leading to the possibility of more arrests and, subsequently, successful prosecutions.

Potential fiscal effect of Gambling Law provisions on local economies

If the bill results in loss of income to companies currently offering skill-based amusement games, income tax receipts of state and local governments may fall on income of the companies offering these games, but may rise on income gains of other businesses from which consumer expenditures previously had been diverted to spend on the skill-based amusement games. If loss of the games at racetracks, one of the venues where skill-based amusement games have been installed, results in fewer patrons visiting the tracks, parimutuel wagering might also decline if some of those attracted to the tracks by the skill-based amusement games also wagered on horse races. This could result in lost revenues to the Racing Commission from taxes on parimutuel wagering. Alternatively, if the skill-based amusement games compete with parimutuel wagering for the public's gambling dollars, elimination of the games could result in increased parimutuel wagering and associated tax revenues to the Racing Commission. Any such gains or losses are of uncertain magnitude.

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