



Ohio Legislative Service Commission

Phil Cummins

Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 277 of the 129th G.A.

Date: June 28, 2011

Status: As Enacted

Sponsor: Reps. Blessing and Gerberry

Local Impact Statement Procedure Required: No

Contents: Permits a horse racing permit holder who is eligible to become a video lottery sales agent to apply to the State Racing Commission to move its track to another location, and makes changes to casino law

State Fiscal Highlights

- The bill is permissive regarding changes to horse racing track locations, and the state may gain additional revenues if permit holders offer incremental economic benefits in exchange for approval of proposed locations.
- If permit holders install video lottery terminals at the new locations, the state may gain additional revenues, and the State Lottery Commission may incur additional regulatory costs.
- Exclusion from the commercial activity tax (CAT) of winnings paid by casinos to wagerers will reduce tax revenues by tens of millions of dollars per year. Revenue from the CAT is deposited in part to the GRF.

Local Fiscal Highlights

- If horse racing track permit holders use the authority granted by the bill to relocate tracks, units of local government may gain property tax and horse racing tax revenues at the new race track locations. They may incur additional costs for services to the race tracks at the new locations.
- If permit holders relocate, other local governments may lose revenues at the locations vacated by the tracks. Any such revenue losses would depend on business decisions made by permit holders, so LSC would classify any resultant fiscal effects as indirect.
- Exclusion from the commercial activity tax of winnings paid by casinos to wagerers may reduce distributions to units of local government through the state's Local Government Fund and Public Library Fund. Under changes made in the main operating budget bill (H.B. 153), reductions would not start until after FY 2013.

Detailed Fiscal Analysis

Relocation of horse racing tracks and video lottery terminals

The bill allows a horse racing permit holder who is eligible to become a video lottery sales agent to apply to the State Racing Commission to move its track. The application is to specify the new location and incremental economic benefits the permit holder is willing to provide to the state in exchange for approval of the transfer (but see below). The Racing Commission is to approve or deny the transfer, is authorized to establish application fees, and may adopt rules pertaining to track relocation, but may not adopt rules regarding operation of lotteries or video lotteries. The permit holder may apply to the State Lottery Commission for a video lottery sales agent license at the new location. The bill states that permit holders have two years from its effective date to submit their applications.

A permit holder located on property owned by a political subdivision may move the track to a new location within 20 miles. Such a permit holder may not be charged a fee in connection with a move to a new location in the immediate vicinity. For a period of two years, such a permit holder may apply for a permit to conduct horse races at a new location. This provision pertains only to Lebanon Raceway.

Provisions related to relocations of horse racing tracks are permissive for permit holders, and their fiscal effects, for both the state and for local subdivisions, depend on the actions of permit holders. LSC therefore classifies these as indirect fiscal effects. Gains to the state may include the incremental economic benefits offered by permit holders, as well as increased revenues from video lottery terminals and possibly also from horse racing. If the permit holders install video lottery terminals, the State Lottery Commission may incur increased regulatory costs.

Horse racing tax revenues accrue to five state special revenue funds: the Ohio Thoroughbred Race Fund (Fund 5620), the Ohio Standardbred Development Fund (Fund 5630), the Ohio Quarter Horse Development Fund (Fund 5640), the Ohio Combined Simulcast Horse Racing Purse Fund (Fund 5C40), and the State Racing Commission Operating Fund (Fund 5650).

If horse racing track locations are moved, units of local government in the locations to which tracks are moved may gain additional property tax revenues, possibly local income tax revenues, as well as a share of the horse racing tax.¹ These local subdivisions may incur additional costs for services to the new tracks and video lottery terminal locations. Local governments in the locations from which tracks are moved would lose the tax revenues from the tracks.

¹ Revised Code section 3769.28.

Changes to Casino Law

Most changes to the casino law have little fiscal effects, except most notably changes to the definition of taxable gross receipts for purposes of the CAT.

Commercial activity tax application to casino revenue. Amounts collected by a licensed casino operator in excess of gross casino revenue are excluded from the definition of taxable gross receipts for purposes of the CAT. Gross casino revenue means the total amount of money exchanged for purchase of chips, tokens, tickets, electronic cards, or similar objects by casino patrons, less winnings paid to wagerers. Gross casino revenue does not include promotional gaming credit issued to a patron to enable placement of or increase in a wager, except that when issuance of the promotional gaming credit requires money exchanged from the patron, the excludible portion of the promotional gaming credit does not include the portion purchased by the patron.

Exclusion of winnings paid to wagerers from the CAT will reduce tax revenues to the state by an estimated tens of millions of dollars per year when all casinos are fully operational. FY 2013 may be the first year all four casinos are operational. Total wagers at casinos are unknown but may potentially amount to ten to twenty billions of dollars yearly. They are expected to be reduced if VLTs are installed at the horse racing tracks because the casinos would be in direct competition with the slot machines at the tracks, though casinos would have a perceived advantage if racetracks were not allowed table games. Tax revenues from casino nongambling sources (such as restaurants, gift shops, etc.,) would be unaffected by the exclusion of winnings paid to wagerers from the commercial activity tax.

The reduction in CAT receipts would affect several funds. Revenue from the CAT is deposited in part to the GRF, and in part to the School District Tangible Personal Property Replacement Fund and the Local Government Tangible Personal Property Replacement Fund. Various shares of CAT receipts to the three funds are being changed by H.B. 153, the budget bill. Also, GRF tax receipts are distributed to the Local Government Fund and the Public Library Fund. In the upcoming biennium, under changes made in the budget bill, amounts to be paid to the Local Government Fund (Fund 7069) and the Public Library Fund (Fund 7065) are specified in terms of amounts paid in FY 2011. In future years, however, distributions through these two funds to units of local government will vary with total GRF taxes. In FY 2013 and thereafter, 50% of commercial activity tax receipts are to go to the GRF.

Other changes to Casino Law. The bill creates the Casino Operator Settlement Fund. This fund is to receive any money paid by casino operators in excess of amounts for licenses, fees, or taxes. Money in this new fund is to be used for activities related to workforce development, economic development, job creation, training, education, food banks, and expenses. The bill does not specify amounts that may be paid to the Fund.

The Ohio Casino Control Commission is prohibited by the bill from requiring use of a central system by a casino operator if the casino operator is in compliance with

the Casino Law. A central system is one operated by or under the Commission's control. If a casino operator is found not to be in compliance with the Casino Law, and fails to cure the problem or demonstrate diligent pursuit of the required cure, the Commission may require installation and implementation of a central system.

The bill changes requirements pertaining to required initial investments by a casino operator. It permits a casino facility to be opened in phases and to have gaming areas in more than one location within the boundaries of the properties described in the Ohio Constitution, and makes other changes.

The bill changes the renewal period for a casino-related license to three years from not more than three years, and specifies that the Ohio Casino Control Commission may charge a reasonable fee to cover the Commission's costs for review of the license renewal application.

The bill also includes other provisions that have no fiscal effect. For those please read the LSC bill analysis.