Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 386 of the 129th G.A. **Date**: February 15, 2012

Status: As Reported by House Rules & Reference **Sponsor**: Rep. Blessing

Local Impact Statement Procedure Required: No

Contents: Makes changes to gaming-related laws and makes appropriations

State Fiscal Highlights

STATE FUND	FY 2012	FY 2013	FUTURE YEARS
General Revenue Fund			
Revenues	Possible transfer from Racetrack Relocation Fund		- 0 -
Expenditures	- 0 -	- 0 -	- 0 -
Racetrack Relocation Fund (created by the bill)			
Revenues	Possible gain		- 0 -
Expenditures	Possible increase		- 0 -
Racetrack Facility Community Economic Redevelopment Fund (created by the bill)			
Revenues	Possible transfer up to $12 million from Racetrack Relocation Fund		- 0 -
Expenditures	Possible increase up to $12 million		- 0 -
Ohio Penal Industries Manufacturing Fund (Fund 2000)			
Revenues	$4.5 million gain		- 0 -
Expenditures	- 0 -		- 0 -
Problem Casino Gambling and Addictions Fund (Fund 5JL0)			
Revenues	Transfer of $500,000 from Racetrack Relocation Fund; reimbursement up to $250,000 for costs of gaming addiction study; 1% of commissions on VLT income paid to racing permit holders		- 0 -
Expenditures	- 0 -		- 0 -
Department of Alcohol and Drug Addiction Services			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase (for the gaming addiction study)		- 0 -
Ohio Thoroughbred Race Fund (Fund 5620)			
Revenues	Possible loss		
Expenditures	- 0 -	- 0 -	- 0 -
Ohio Standardbred Development Fund (Fund 5630)			
Revenues	Possible loss		
Expenditures	- 0 -	- 0 -	- 0 -

STATE FUND	FY 2012	FY 2013	FUTURE YEARS
State Racing Commission Operating Fund (Fund 5650)			
Revenues		Possible loss	
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The Racetrack Relocation Fund, created by the bill and funded with amounts paid by horse racing permit holders to relocate, is to allocate money to the Problem Casino Gambling and Addictions Fund ($0.5 million), the Racetrack Facility Community Economic Redevelopment Fund (up to $3 million for each community from which a horse racing track is moved), and the GRF.
- Revenue to the Racetrack Relocation Fund would depend on the number of horse racing tracks that relocate and the amounts, not specified in the bill, that each track is required to pay to do so.
- The Racetrack Facility Community Economic Redevelopment Fund, created by the bill, is to be used by the Director of Development for redevelopment in communities from which horse racing tracks move. The bill appropriates $12 million from this fund and reappropriates, in FY 2013, any unexpended and unencumbered appropriations at the end of FY 2012.
- The bill requires that a specified property in Warren County, owned by the state, be sold to the current holders of horse racing permits for the Lebanon Raceway for $4.5 million, with proceeds to be credited to Fund 2000, used by the Department of Rehabilitation and Correction.
- The bill diverts taxes on horse race wagering from three Racing Commission funds under current law to the municipal corporations and townships where the tracks are located.
- Requirements that horse racing permit holders conduct live and simulcast races on at least specified numbers of days each year may tend to increase revenues from the tax on wagering.
- From video lottery terminal income paid as commission to permit holders, 1% is to be paid to Fund 5JL0, and a percentage, to be set by the Racing Commission, may be paid to that agency to benefit horse breeding and racing.
- The bill specifies that the $50 million upfront casino license fee in current law is a one-time fee that is not to be assessed upon the transfer of the license, if the transfer is approved by the Casino Control Commission. It specifies also that the $1.5 million application fee for a casino operator license may be assessed upon the transfer of the license. Such a transfer would be permitted only if authorized by the Commission.
- The bill allows the Casino Control Commission to charge a fee to review an application for transfer of a casino operator license.

- The term of a lottery sales agent license is extended by the bill from one year to up to three years, which may reduce per-year fee revenue by a minimal amount.
- The bill requires the Department of Alcohol and Drug Addiction Services to conduct a study on gaming addiction problems within the state. No money is appropriated for this purpose, but the bill provides for reimbursement through Fund 5JL0.
- The bill reappropriates, in FY 2013, any unexpended and unencumbered portion of appropriation item 195526, Ohio Workforce Job Training, at the end of FY 2012.
- Bingo-related changes in the bill might affect revenue to the Office of the Attorney General's Charitable Foundations Fund (Fund 4180).
- Investigations of casino gaming by the Inspector General, required by the bill, may increase expenditures by that agency.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2012	FY 2013	FUTURE YEARS
Franklin, Lucas, and Possibly Other Counties			
Revenues	Potential gain from redevelopment assistance		- 0 -
Expenditures	- 0 -	- 0 -	- 0 -
Grove City, Toledo, and Other Local Governments			
Revenues	Potential gain from redevelopment assistance		- 0 -
Expenditures	- 0 -	- 0 -	- 0 -
Municipalities and Townships			
Revenues	- 0 -	- 0 -	Potential gain from tax on wagering at race tracks
Expenditures	- 0 -	- 0 -	- 0 -

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

- The previous community of each moved horse race track is to receive up to $3 million in redevelopment assistance. These communities are expected to be Grove City in Franklin County, Toledo in Lucas County, and possibly others.
- School districts and other political subdivisions would lose real property tax revenues in future years in the communities from which horse race tracks move. Such moves were allowed by H.B. 277 of the 129th General Assembly.
- Political subdivisions in Warren County will receive additional real property tax revenue from a property to be sold by the state to the current holders of horse racing permits for Lebanon Raceway.
- Political subdivisions in communities to which horse race tracks relocate will gain real property tax revenues in future years.
- Revenue to municipal and township governments where horse tracks are located would increase from a 1.375% tax on amounts wagered, beginning July 1, 2013.
- Costs of the Franklin County Court of Common Pleas may increase, as certain cases related to the state lottery are required by the bill to be brought in that court.

Detailed Fiscal Analysis

The bill makes several changes to Ohio law related to gaming activities and creates new funds in the state treasury. The majority of the changes are regulatory in nature, though certain provisions of the bill may have fiscal impacts on state funds, certain agencies, and certain local governments. For a detailed description of all the provisions of the bill, please read the LSC bill analysis.[1]

Ohio Racing Commission

The bill repeals current law (Section 4 of Sub. H.B. 277 of the 129th General Assembly) that provides for relocation of the track at Lebanon, and instead authorizes the Governor to convey land to the Lebanon Trotting Club, Inc., and Miami Valley Trotting, Inc., holders of racing permits who conduct separate racing meets at the Lebanon Raceway. The land is located in Warren County, near the intersection of State Route 63 and Interstate 75. Its boundaries are specifically described in the bill. The land conveyed is not to exceed 120 acres. The Auditor of State, with the assistance of the Attorney General, is authorized by the bill to modify the property description as needed to conform with the bounds of the real estate being sold. The sale price is specified as $4.5 million. The buyer is responsible for all costs of the purchase and conveyance of the real estate. Net proceeds of the sale are to be credited to Fund 2000, used by the Department of Rehabilitation and Correction for appropriation item 501607, Ohio Penal Industries, spent on farm and agricultural uses. Among the additional terms is a requirement that access to the Lebanon Correctional Institution's dairy barn, along a road at the property's edge, be maintained in perpetuity. The property being sold is currently tax exempt but after the transaction would generate tax revenue to Lebanon CSD, Warren County, and Turtlecreek Township on the value of the land and future improvements, and future changes to that valuation.

The bill creates the Racetrack Relocation Fund and the Racetrack Facility Community Economic Redevelopment Fund, the latter to be used by the Department of Development. It provides that both funds will cease to exist once they have allocated all funds provided them in accordance with the bill.

The Racetrack Relocation Fund is to receive any money paid by horse racing permit holders for the privilege to relocate, as permitted under current law (Section 3 of Sub. H.B. 277 of the 129th General Assembly). The amount of such payments is not specified in the bill. Money in the fund is to be allocated (1) to the Problem Casino Gambling and Addictions Fund (Fund 5JL0) for research and data collection on gambling addiction issues, $500,000, (2) to the previous community of each moved track, to be deposited in the Racetrack Facility Community Economic Redevelopment Fund, up to $3 million to each community, and (3) to the GRF.

[1] The bill analysis is available at www.legislature.state.oh.us.

The bill specifies minimum numbers of live racing days for racing permit holders. Live racing days are days on which a permit holder conducts a live racing program, consisting of at least seven horse races conducted at the permit holder's location.[2] Under the bill, each permit holder at a standardbred track must conduct at least 75 live racing days in calendar year 2013, and each permit holder at a thoroughbred track must conduct at least the greater of 75 live racing days or the number of live racing days conducted at the track in 2012. The required number of live racing days rises to 100 in 2014 or, for thoroughbred tracks, the number in 2012 if that number is greater than 100. In 2015 and thereafter, the minimum number of live racing days is 125 and the maximum is 210. The Racing Commission is given discretion to reduce the number of days in natural disasters or other unexpected circumstances, and a horsemen's association may negotiate with a permit holder an agreement for fewer live racing days, subject to a lower limit of 50 per year. These provisions may result in more live races being conducted than otherwise. The schedules currently posted to the Racing Commission's web site for the state's seven commercial race tracks for 2012 show the number of live racing days ranging from 40 to 211. Only one of the tracks is listed as conducting as many live racing days as would be required by the bill starting in 2015. An increase in the number of live racing days would tend to result in additional revenue to the Racing Commission from the wagering tax. LSC does not have an estimate of the amount of additional revenue.

In addition, the bill requires that each permit holder must simulcast races on a minimum of 360 days each calendar year. Simulcasting involves broadcasting a race conducted at another location, on which wagers may be placed. The amount of wagering in Ohio on simulcast horse races substantially exceeds that on live horse races. The requirement in the bill may increase the number of days on which permit holders simulcast races, which could result in additional revenues to the Racing Commission from the wagering tax. As with live racing the Racing Commission may reduce the number of days of simulcast races in unexpected circumstances. LSC does not have an estimate of the amount of any additional revenue.

The bill specifies that racing permit holders authorized to conduct video lottery terminal (VLT) gaming shall receive a commission on VLT income as set in rule 3770:2-3-08 (which currently provides that racetrack owners would receive 66.5% of VLT income). The racetracks may pay a percentage of their commission from video lottery terminal income to the Racing Commission for the benefit of horse breeding and racing in the state. The percentage is to be set by the Racing Commission. This provision of the bill may increase receipts and expenditures of the Racing Commission. In addition,

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[2] More specifically, R.C. 3769.087 requires at least seven live races at thoroughbred tracks and nine live races at standardbred tracks, except that the number may be reduced to eight or seven live races if too few horses are entered to have a full field of eight horses for each race.

permit holders are to pay 1% of their commissions from VLT income to the Problem Casino Gambling and Addictions Fund (Fund 5JL0).

The bill changes the disposition of some of the taxes on wagering on horse racing. Instead of paying 1.125% of money wagered at thoroughbred tracks to the Ohio Thoroughbred Race Fund (Fund 5620) and 0.25% to the State Racing Commission Operating Fund (Fund 5650), the bill directs this 1.375% of wagers to the municipal corporation or township in which each thoroughbred race track is located. Instead of paying 1.125% of money wagered at harness racing tracks to the Ohio Standardbred Development Fund (Fund 5630) and 0.25% to the State Racing Commission Operating Fund, the bill directs this 1.375% of wagers to the municipal corporation or township in which each harness race track is located. Taxes paid to these three Racing Commission funds that are specified by R.C. 3769.087, on exotic wagers (wagers that are other than win, place, or show), are unaffected by these changes. This provision is to take effect July 1, 2013. The change in the disposition of taxes on horse race wagering would eliminate most of the revenue provided by current law to Fund 5620 and Fund 5630, used mainly to promote horse breeding and racing, and about one-fourth of revenue from wagering to Fund 5650, which receives additional revenue from licenses and fees. The taxes to be paid to units of local government under the bill are in addition to amounts distributed to these local governments under current law (R.C. 3769.28), which amounted to about $260,000 in 2011.

The bill also includes other provisions pertaining to the Racing Commission that appear to have no fiscal effect. For these other provisions, please see the bill analysis.

Ohio Casino Control Commission

The bill makes transferable a casino operator license, subject to the approval of the Casino Control Commission. The transfer requires an application to be submitted, and the Commission may assess the $1.5 million application fee specified in current law and a "reasonable" fee newly permitted by the bill to review the application. The fee would be deposited in the Casino Control Commission Fund (Fund 5HS0), used to fund appropriation item 955321, Casino Control – Operating.

The bill also specifies the upfront casino license fee of $50 million, to be deposited in the Economic Development Programs Fund (Fund 5JC0), is a one-time fee paid upon the initial filing of a casino operator's license application, and this fee may not be assessed upon a subsequent transfer of a casino operator's license.

The bill amends section 3772.03 of the Revised Code to state that the Casino Control Commission is a "law enforcement agency," and its gaming agents are "law enforcement officers as defined in section 2901.01 of the Revised Code." That section among other provisions imposes on law enforcement officers a duty to enforce certain laws and confers the authority to arrest violators, within the limits of their statutory duty and authority. This change may increase expenditures of the Commission, although the Commission and its gaming agents have authority under current law to investigate gaming offenses and arrest suspected violators. The bill also makes

clarifying and reorganizing changes to the adjudication hearing process of the Casino Control Commission.

Ohio Lottery Commission

The bill authorizes the Director of the State Lottery Commission to promulgate rules relative to video lottery terminals (VLT) games and to license VLT technology providers, testing laboratories, and gaming employees. This provision has no fiscal effect.

The bill eliminates the requirement that lottery sales agent license application fees, the license renewal fee, and administrative fees charged by the State Lottery Commission be approved by the Controlling Board. This provision has no fiscal effect. Also, the bill extends the validity of a lottery sales agent license, or renewal of a sales agent license, from one year to up to three years, and eliminates the Controlling Board's approval of sales agent license fees. This provision may reduce, by a minimal amount, fee revenues stated on a per-year basis.

The bill authorizes the Director of the State Lottery Commission, with the Commission's approval, to adopt an alternative program or policy for a lottery sales agent license applicant to establish financial responsibility, in lieu of obtaining a surety bond or making a dedicated account deposit. The bill also allows lottery sales agents to participate in the new program or policy with the Director's approval. The financial responsibility program is intended to protect the Lottery Commission against an agent's failure to make prompt and accurate payments for lottery ticket sales, against lost or stolen tickets, and against damaged equipment issued to the agent. This provision specifies that the alternative program or policy must protect the interests of the state lottery. There should be no fiscal effect from this provision.

The bill allows racetrack operators that are licensed lottery sales agents to provide VLT promotional gaming credits to patrons, subject to oversight by the State Lottery Commission which shall adopt rules for VLT gaming credits. The bill also excludes VLT promotional gaming credits from VLT income. The fiscal effect of this provision is uncertain, as it would depend on whether the gaming credits encourage patrons to wager more than they would otherwise by enough that VLT net machine income increases.

The bill specifies that no lottery award that meets or exceeds the reportable winning amounts set by 26 U.S.C. 6041 (currently $600) shall be claimed unless the name, address, and Social Security number of each beneficial owner of a prize award is documented for the Commission.

The bill provides that any action asserting that section 3770.03 or section 3770.21 of the Revised Code violate a provision of Ohio's Constitution, or any related actions listed in the bill, are to be brought in the Franklin County Court of Common Pleas. These sections of law pertain to the Lottery Commission and video lottery terminals, respectively. This provision may increase costs of that court.

Ohio Department of Alcohol and Drug Addiction Services

The bill requires the Director of Alcohol and Drug Addiction Services (ODADAS) to complete a study to identify the current status of gaming addiction problems within the state. The bill does not specify the source of funding for the study, the timing for its completion, or the recipients of the study. Under current law, the Casino Control Commission is to enter into an agreement with ODADAS whereby ODADAS provides a program of gambling and addiction services on behalf of the Casino Control Commission. Current law also specifies that the Director of Alcohol and Drug Addiction Services administers the Problem Casino Gambling and Addictions Fund (Fund 5JL0), which is to receive 2% of receipts from the tax on casino revenues. The Director is to use the money in the fund to support programs that provide gambling addiction services, alcohol and drug addiction programs that provide alcohol and drug addiction services, other programs that relate to gambling addiction and substance abuse, and research that relates to gambling addiction and substance abuse.

In FY 2013, and after ODADAS certifies to the Director of Budget and Management the cost, not exceeding $250,000, incurred by the agency in conducting the gaming addiction study, the Director of Budget and Management may transfer cash to Fund 5JL0 to reimburse the fund for costs incurred in conducting the study.

Department of Development

The Racetrack Facility Community Economic Redevelopment Fund, to be administered by the Department of Development, is to be used for repurposing or demolishing abandoned horse racing facilities or reinvestment in the areas, neighborhoods, and communities near the former race tracks. Money in the fund is also to pay reasonable costs of the Department to administer these provisions. The bill appropriates $12 million in FY 2012 for these purposes. Also, the bill reappropriates in FY 2013 any unexpended and unencumbered portion of the FY 2012 appropriation.

Based on previously published reports, horse racing permit holders expected to relocate to different tracks, in addition to those racing at Lebanon Raceway, include those at Beulah Park in Grove City, to be moved to the Dayton area, and Raceway Park in Toledo, to the Youngstown area. The current locations of these facilities and the surrounding areas would benefit from the redevelopment efforts paid from the Racetrack Facility Community Economic Redevelopment Fund. The school districts and other political subdivisions where Beulah Park and Raceway Park are now located would lose real property tax revenues in future years as a result of the relocation of these race tracks, permitted by current law (Section 3 of Sub. H.B. 277 of the 129th General Assembly). Lebanon Raceway is operated at the county fairgrounds and generates no real property tax revenue. The bill provides that Lebanon, whose permit holders do not pay into the Racetrack Facility Community Economic Redevelopment Fund, is not eligible to receive moneys in that fund.

Am. Sub. H.B. 153, the current biennium budget act, requires the Director of Budget and Management to transfer up to $20 million in FY 2012 and $30 million in FY 2013 from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Department of Development. The transfers fund appropriation item 195526, Ohio Workforce Job Training, which is to be used to support the Ohio Incumbent Workforce Training Voucher Program. H.B. 386 amends H.B. 153 to reappropriate in FY 2013, for the same purpose, any unexpended and unencumbered portion of the appropriation remaining at the end of FY 2012.

Ohio Department of Taxation

The bill requires the Tax Commissioner to provide payments of casino tax revenue on or before the 30th day of the month following the end of each calendar quarter to counties, municipal corporations, and school districts. This provision simply specifies the timing for payments required by existing law and has no fiscal impact.

Inspector General

The bill requires the Inspector General to investigate the conduct of casino gaming and maintenance of related equipment. These duties may include examination of witnesses and records, and use of experts in conducting investigations. These investigations may increase expenditures by the Office of the Inspector General. No appropriation is included in the bill for this purpose. The bill states that, if the authority of the Inspector General to investigate the conduct of casino gaming terminates or expires, the authority vested in the Inspector General terminates upon the conclusion of the investigations or the issuance of the final report of the investigations.[3]

Charitable organizations and bingo-related provisions

The bill allows charitable organizations to conduct games of chance for up to 128 hours each year for each organization, in a charity card room rented from any of the state's seven horse race tracks. All proceeds after expenses are paid to the charity. This provision appears to have little fiscal effect on the state or any of its political subdivisions. The bill also makes several changes to existing law related to bingo and instant bingo which will not directly affect any of the state's political subdivisions. The provisions which could create fiscal effects for the state are discussed below.

The bill revises the definition of "charitable organization." As a result of this change, it is possible that certain organizations may no longer qualify to conduct charitable gaming activities. It is also possible that some organizations that may not have qualified under current law, may qualify after the bill is enacted. The net effect of these changes is unknown. Any effect could impact the number of licenses that are issued each year by the Office of the Attorney General. Annual license fees are

[3] Section 121.421(D) of the bill.

deposited to the credit of the Office of the Attorney General's Charitable Foundations Fund (Fund 4180), which is used to support the Charitable Law Section.

The bill modifies existing restrictions on the conduct of bingo and instant bingo. Two of these changes include expanding by two hours the time period during which a charitable organization may conduct a bingo session and eliminating the requirement that the location at which a charitable organization conducts bingo be within the county in which the organization is located. If a charitable organization's gross annual receipts ultimately increase because of these changes, bingo licensing revenues, which are based on gross annual receipts, could increase. Annual license fees are deposited to the credit of Fund 4180, which is used to support the Charitable Law Section. The potential magnitude of any such increase is uncertain.

The bill amends the definition of "net profit from the proceeds of the sale of instant bingo" of veteran's, fraternal, or sporting organizations to subtract real property taxes and assessments paid by the organization on the premises where the instant bingo is conducted. This definition pertains to the required distribution of the net profits as prescribed by section 2915.101 of the Revised Code. Part of the net profit must be paid either to a governmental unit or to certain religious, educational, charitable, scientific, literary, or similar organizations. The balance may be retained to cover the organization's expenses in conducting instant bingo. By reducing the amount of net profit subject to this constraint, the amendment would reduce the required payments by the veteran's, fraternal, or sporting organizations. In general, this change would have no direct effect on revenues or expenditures of state or local government units.

The bill specifies that no charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions.

Emergency clause

The bill includes an emergency provision which specifies that amendment of Revised Code sections 3770.02 and 5753.03 goes into immediate effect when the bill becomes law.

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