



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 386 of the 129th G.A.
(LSC 129 1836-6)

Date: May 3, 2012

Status: In Senate Government Oversight & Reform

Sponsor: Rep. Blessing

Local Impact Statement Procedure Required: No

Contents: Makes changes to gaming-related laws, makes appropriations, and declares an emergency

State Fiscal Highlights

STATE FUND	FY 2012	FY 2013	FUTURE YEARS
General Revenue Fund			
Revenues	Possible transfer from Racetrack Relocation Fund		- 0 -
Expenditures	- 0 -	Up to \$250,000 transfer to Fund 5JL0	- 0 -
Racetrack Relocation Fund (created by the bill)			
Revenues		Possible gain	- 0 -
Expenditures		Possible increase	- 0 -
Racetrack Facility Community Economic Redevelopment Fund (Fund 5LU0, created by the bill)			
Revenues	Possible transfer up to \$19 million from Racetrack Relocation Fund		- 0 -
Expenditures	Possible increase up to \$15.5 million	Possible increase up to \$3.5 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; potential reimbursement from GRF up to \$250,000 for costs of gaming addiction study		- 0 -
Expenditures		- 0 -	- 0 -
Department of Alcohol and Drug Addiction Services			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase (for the gaming addiction study)		- 0 -
General Reimbursement Fund (Fund 1060)			
Revenues	Potential gain from criminal background check fees	Potential gain from criminal background check fees	Potential gain from criminal background check fees
Expenditures	Potential increase in costs to perform additional criminal background checks	Potential increase in costs to perform additional criminal background checks	Potential increase in costs to perform additional criminal background checks

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 (\$19 million), 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, and by municipal corporations and townships where tracks are located. The bill appropriates \$12 million from this fund for communities from which tracks move, and reappropriates, in FY 2013, any unexpended and unencumbered appropriation at the end of FY 2012. It appropriates \$3.5 million each year for two years for communities where tracks are located.
- 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.
- From video lottery terminal income paid as commission to permit holders, a percentage to be set by the Racing Commission may be paid to that agency to benefit horse breeding and racing.
- 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.
- The bill specifies that the \$50 million upfront casino license fee in current law shall be paid upon each casino operator's application with the Casino Control Commission.
- 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 from the GRF to Fund 5JL0.
- Bingo-related changes in the bill might affect revenue to the Office of the Attorney General's Charitable Foundations Fund (Fund 4180).
- The Attorney General's Bureau of Criminal Identification and Investigation will likely experience an increase in the number of requests for criminal background checks, with the revenues generated likely to offset any expenditures incurred. The revenues will be credited to, and the expenditures charged against, the General Reimbursement Fund (Fund 1060).

- 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	Potential gain of \$3.5 million	Potential gain of \$3.5 million	- 0 -
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, with \$12 million appropriated for this purpose. These communities are expected to include Grove City in Franklin County and Toledo in Lucas County.
- Municipal and township governments where horse tracks are located, not including the former communities of moved tracks, would each receive \$0.5 million per year for two years.
- School districts and other political subdivisions would lose real property tax revenues in future years in the communities from which horse race tracks move. Political subdivisions in communities to which tracks relocate will gain real property revenues. 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.
- 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 to be conveyed 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 (Fund 5LU0). 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.² Money in the fund is to be allocated by the Office of Budget and Management (1) to the Problem Casino Gambling and Addictions Fund (Fund 5JL0) for

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

² A memorandum of understanding between Penn National Gaming and the Office of the Governor, signed in February 2012, provides for a fee of \$75 million per track to transfer horse racing permits for two tracks from their current locations in Toledo and Grove City.

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, (3) to the municipal corporation or township in which each commercial racetrack is located, excluding the previous community of each moved track, \$500,000 per year for two years, and (4) to the GRF. The bill appropriates \$15.5 million in FY 2012 and \$3.5 million in FY 2013 from the Racetrack Facility Community Economic Redevelopment Fund. Of this amount, up to \$12 million is to be used by the Department of Development for repurposing or demolition of abandoned race tracks and reinvestment in the nearby areas. The bill reappropriates in FY 2013 any unexpended and unencumbered portion of the FY 2012 appropriation. The remaining \$3.5 million in each year is to be used by the communities of the racetracks, excluding the previous communities of moved tracks, with at least 75% to be used for infrastructure or capital improvements.

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.³ These provisions may result in more live races being conducted than otherwise. 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 number of 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. LSC does not have an estimate of the amount of any additional revenue.

The bill specifies that the Racing Commission may direct racing permit holders authorized to conduct video lottery terminal (VLT) gaming to pay a percentage of their commission from VLT income to the Racing Commission for the benefit of horse breeding and racing in the state. This percentage is to be set by the Racing Commission. The bill specifies an upper limit for this percentage in terms of a mix of percentages of video lottery terminal income and lottery sales agents' commissions that may imply that

³ R.C. 3769.089 defines a live racing day as including at least seven live races at thoroughbred tracks and nine live races at standardbred tracks, except that the latter number may be reduced to no less than seven live races if too few horses are entered to have a full field of eight horses for each race.

this upper limit is 11.5% (assuming that the percent of VLT income for agents' commissions is the 66.5% currently provided by rule of the Lottery Commission).

The bill allows a horse racing permit holder to take responsibility for handling required payments and distributions of simulcast fees for related permits under common ownership, in lieu of making these payments through the collection and settlement agent designated by the Racing Commission. The permit holder may use an authorized agent for this purpose. In the past, payments and distributions of simulcast fees have been made through the permit holder appointed annually by the Commission as the collection and settlement agent. This change may entail additional costs for Commission oversight of multiple permit holders and agents disbursing these fees.

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 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 filing of a casino operator's license application.

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.

Certain charitable organizations that establish a charity card room at a permitted location shall disclose to patrons of the charity card room which dealers are paid and which dealers are not paid. The bill requires paid dealers to be licensed by the Casino Control Commission which would prescribe the licensing process, including fees to be paid for dealers' licenses. The fees would be deposited in the Casino Control Commission Fund (Fund 5HS0), used to fund appropriation item 955321, Casino Control – Operating.

The bill requires applicants for specified casino-related licenses (casino operator, management company, holding company, gaming-related vendor, key employee, casino gaming employee) to pay fees charged by the Bureau of Criminal Identification and Investigation for a criminal records check based on the applicant's fingerprints. Under current law, the Commission is to pay the fee and be reimbursed by the applicant. By modifying this requirement, the Commission may realize some administrative costs savings. The bill also specifies that the renewal of specified casino-

related licenses is subject to review by the Permanent Joint Committee on Gaming and Wagering.

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. This provision may reduce, by a minimal amount, fee revenues stated on a per-year basis. The bill requires approval of sales agent license fees by the Permanent Joint Committee on Gaming and Wagering, in addition to the Controlling Board required in current law, and requires review by this Committee of renewal fees and of fees for change of an application. The Permanent Joint Committee on Gaming and Wagering is established in current law by R.C. 3772.032.

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 approval 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, or any rule adopted under those sections, violates a provision of Ohio's Constitution is to be brought in the Franklin County Court of Common Pleas within 90 days. These sections of law pertain to the Lottery Commission and video lottery terminals, respectively. Any claim asserting that any action by the Governor or the Lottery Commission pursuant to those sections violates any provision of the Constitution or the Revised Code is to be brought in that court within 60 days. These provisions may increase costs of that court.

Current law requires the Ohio Lottery to reduce awards to a prize winner who is indebted to the state for the payment of items such as income tax, workers compensation premiums, and unemployment contribution, by amounts owed to satisfy those debts. The bill adds debts to political subdivisions that have a certified claim under R.C. 131.02 to the list of debts that are required to be paid by the Ohio Lottery, if the prize award is valued at \$5,000 or more, before any remaining amounts from the award may be remitted to a prize winner. The bill specifies, however, that state debts have priority over the debts to political subdivisions. This provision may increase revenues to local political subdivisions.

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 from the GRF to Fund 5JL0 to reimburse the fund for costs incurred in conducting the study.

Department of Development

The Racetrack Facility Community Economic Redevelopment Fund is to be used by the Department of Development for specified purposes (see details under Ohio Racing Commission). Money in the fund is also to pay reasonable costs of the Department to administer these provisions.

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 Youngstown area, and Raceway Park in Toledo, to the Dayton 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.

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.

The Tax Commissioner is to calculate the proportional shares of the Gross Casino Revenue County Student Fund (Fund 5JH0) to be paid to each county twice yearly, by January 31 and August 31 beginning in 2013 – or on January 30, April 30, July 30, and October 30 according to provisions of Sec. 5753.03 of the bill – using information to be provided by the Department of Education. The Tax Commissioner is to make the data available to the Director of Budget and Management.

The bill specifies that all investment earnings of the Gross Casino Revenue County Student Fund are to be credited to the fund. However, under a provision of H.B. 153, and of earlier budget bills, interest earned by state funds may be transferred to the GRF, unless such transfer is contrary to Ohio's Constitution or federal law.

The bill requires casino operators, for winnings large enough that reporting to the IRS is required, to withhold Ohio income tax of 4% of the amount won, instead of 6% under current law. Casinos are required to file monthly reports electronically with the Tax Commissioner on these persons' winnings, amounts withheld, and other pertinent information. A similar requirement applies to lottery sales agents, effective January 1, 2013. The bill specifies that amounts withheld from casino and lottery winnings are treated as income taxes paid, and eliminates treatment of such payments as refundable credits.

Inspector General

The bill requires the Inspector General to investigate and provide general oversight over employees of the Attorney General who are contractually vested with duties to enforce the casino laws, unless the Attorney General specifically designates employees to enforce those laws. 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 Attorney 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.⁴

Department of Education

The Department of Education is required by the bill to report to the Department of Taxation twice yearly the student population of each county and each public school district located in whole or in part in the county, for use in determining the distribution of funds in the Gross Casino Revenue County Student Fund. The bill provides specific criteria for determining this count.

Municipal Income Tax Withholding at Casinos

The bill specifies that municipal corporations may require casino facilities to withhold and remit tax with respect to amounts other than qualifying wages. Thus, the bill allows municipal income tax collections on a patron's winnings at a casino at the rate of tax of the municipal corporation. For casinos that are in municipalities with an income tax, this provision ensures better compliance with income tax ordinances. Municipal income tax withholdings are to be included in the tax reporting by casinos to the Department of Taxation.

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. All proceeds after expenses are paid to the charity. The bill requires that all persons licensed to be a paid dealer for a charity card room obtain a criminal records check. The Attorney General's Bureau of Criminal Identification and Investigation (BCII) charges \$22 to perform a state criminal records check and an additional \$24 to obtain information from the FBI to perform a federal criminal records check. Presumably, these charges will offset BCII's cost of performing the background checks. The revenue will be deposited to the credit of the General Reimbursement Fund (Fund 1060).

⁴ Section 121.421(D) of the bill.

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 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.

Sweepstakes terminal devices

The bill provides that, from the effective date of Section 10 of the bill through June 30, 2013, no sweepstakes terminal devices may be operated at locations in addition to those in operation on that effective date. During this period, the Attorney General or county prosecuting attorney may bring an action for injunction against anyone violating this moratorium on operation of such devices at additional locations. A local government entity, upon expiration of any current occupancy permit, permission to

operate, or other permit or license, shall renew the permit or license or grant permission in accordance with current ordinances or procedures.

Emergency clause

The bill includes an emergency clause specifying that it goes into immediate effect upon becoming law.

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