



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** S.B. 317 of the 129th G.A.

**Date:** May 22, 2012

**Status:** As Introduced

**Sponsor:** Sen. Schiavoni

**Local Impact Statement Procedure Required:** No

**Contents:** Licensing and regulation of sweepstakes terminal device operators and vendors

### State Fiscal Highlights

The bill provides for the licensing, regulation, inspection, and investigation of operators and vendors of sweepstakes terminal devices by the Ohio Casino Control Commission.

- **Licensing revenues.** The bill's licensing fees will be determined by rule and the total number of potential license holders is unknown. Thus, the total amount of revenue from licensing fees that is likely to be generated annually for deposit in the Casino Control Commission Operating Fund (Fund 5HS0) is unknown as well.
- **Regulation and enforcement costs.** The new duties prescribed by the bill are an expansion of the Casino Control Commission's original mandate and are expected to increase its operating expenses in the future. The annual magnitude of that likely expenditure increase is uncertain, though licensing revenue may offset, in whole or in part, the increase in costs.
- **Criminal records checks.** 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).
- **Incarceration expenditures.** GRF-funded incarceration costs may increase, as additional felony offenders could be convicted and sentenced to prison. The annual magnitude of that potential increase is uncertain.
- **Court cost revenues.** Annually, the state may gain a minimal amount of locally collected state court cost revenues that would be divided between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

## **Local Fiscal Highlights**

- As a result of violations of the bill's prohibited conduct, additional misdemeanor and felony criminal cases may be generated for county and municipal criminal justice systems to process, potentially producing a minimal annual increase in their costs to investigate, prosecute, adjudicate, and sanction violators. A minimal annual amount of revenue in the form of court costs and fines may also be generated.
- If the legislative authority of a municipality or the unincorporated area of a township adopts an ordinance or resolution affirmatively allowing the operation of a sweepstakes terminal device in its jurisdiction, that municipality or township is permitted to charge fees above those charged by the Casino Control Commission.

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## Detailed Fiscal Analysis

### Licensing of sweepstakes terminal device vendors and operators

The bill provides for the licensing, regulation, inspection, and investigation of operators and vendors of sweepstakes terminal devices by the Ohio Casino Control Commission (OCCC). Beginning July 2, 2011, the OCCC assumed jurisdiction over the regulation of skill-based amusement machines.<sup>1</sup> Licensing of skill-based amusement machine operators and vendors is not required under current law or by the bill.

#### Casino Control Commission

##### Operating expenses

The duties prescribed by the bill are an expansion of the Commission's original mandate and are expected to increase its operating expenses in the future to some degree. The annual magnitude of that likely expenditure increase is uncertain.

##### Licensing revenues

The bill requires that sweepstakes terminal device operators and vendors obtain a license from OCCC before they may legally operate in the state. The Commission is authorized to set the license fees by rule at a later time. The bill requires the licensing fee for a vendor not be less than \$15,000. The Commission may also assess a nonrefundable application fee of not less than \$10,000, as well as any additional amount needed to process the license application. The licensing fee for an operator shall not be less than \$100,000 and the Commission may also assess a nonrefundable license application fee of not less than \$25,000, plus any additional amount necessary to process the license application.

The fiscal note assumes the fees will be deposited to the credit of the Casino Control Commission Operating Fund (Fund 5HS0), which is used to finance the Commission's operating expenses (though the bill does not specify the fund in which licensing fees would be deposited). As the fees have yet to be determined and the total number of potential license holders is unknown, the total amount of revenue that is likely to be generated annually is unknown as well. However, licensing fee revenue may offset the likely expenditure increase from the regulation of sweepstakes terminal devices.

##### Central system expenditures

The bill specifies OCCC is to require and adopt rules to authorize a central system for sweepstakes terminal device operators operated by or under the control of the Commission. Current law defines a central reporting system as a computer system that provides security, auditing, data and information retrieval, and other purposes

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<sup>1</sup> Am. Sub. H.B. 519 of the 128th General Assembly.

deemed necessary and authorized by the Commission related to casino gaming equipment. If the central system is only used for sweepstakes terminal device operators, those operators will be responsible for the costs of the system.

### **Permanent Joint Committee on Gaming and Wagering**

The bill adds to the jurisdiction of the Permanent Joint Committee on Gaming and Wagering the ability to review all laws, fees, and penalties, and make annual reports related to sweepstakes terminal device gaming.

### **Office of the Attorney General**

The bill requires that all persons licensed to be a sweepstakes terminal device vendor or a sweepstakes terminal device operator and their key employees 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). The applicant is responsible for paying the fees associated with obtaining a criminal records check.

### **Local governments**

The bill states that, after the bill's effective date, the legislative authority of a municipality or the unincorporated area of a township may adopt an ordinance or resolution affirmatively allowing the operation of a sweepstakes terminal device in its jurisdiction. If such an ordinance or resolution is adopted, these local governmental jurisdictions may charge fees above those charged by the Casino Control Commission.

### **Criminal prohibitions**

The bill creates several new criminal prohibitions and provides for the expansion of an existing prohibition against operating a gambling house. These prohibitions and related penalties are summarized in Table 1 below.

<b>Table 1. Criminal Prohibitions and Penalties</b>				
<b>Prohibited Conduct</b>	<b>Degree of Offense</b>	<b>Possible Term of Incarceration</b>	<b>Maximum Fine</b>	<b>ORC</b>
<b><u>New offenses</u></b>				
Sweepstakes prohibited conduct	1st degree misdemeanor (for each prize redemption)	6-month jail term	\$1,000	2915.062(B)
	Felony of the 5th degree (if previously convicted of same offense for each prize redemption)	6, 7, 8, 9, 10, 11, or 12-month prison term*	\$2,500 (mandatory maximum)	
Conducting an illegal sweepstakes	4th degree felony	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18-month prison term*	\$5,000	2915.062(C)
<b><u>Expanded offense</u></b>				
Operating a gambling house • <i>Expanded to include conductors of sweepstakes terminal devices</i>	1st degree misdemeanor	6-month jail term	\$1,000	2915.03
	5th degree felony (if previously convicted of same offense)	6, 7, 8, 9, 10, 11, or 12-month prison term*	\$2,500	

\*Sentencing guidance in existing law has a general preference against a prison term for a felony of the fourth or fifth degree.

Subsequent to enactment, it is highly likely that some number of individuals will be arrested, charged, and prosecuted for violating the bill's prohibited conduct. However, the number of violations likely to occur statewide or in any given local jurisdiction is unknown. The paragraphs below outline the state and local government cost points that are typically affected when criminal prohibitions are enacted or expanded, and as a result, additional criminal cases are created for local jurisdictions to process.

### **Local expenditures and revenues**

As a result of violations of the bill's prohibited conduct, additional misdemeanor and felony criminal cases will likely be generated for county and municipal criminal justice systems to process, potentially increasing their costs to investigate, prosecute, adjudicate, and sanction violators. Misdemeanors fall under the subject matter jurisdiction of municipal and county courts while felonies fall under the subject matter jurisdiction of courts of common pleas. Revenues in the form of costs and fines imposed on violators by the sentencing court may also be generated, and if collected, deposited in the applicable county or municipal treasury. Any resulting local expenditure increases or revenue gains will likely be minimal.

### **State expenditures and revenues**

As a result of individuals violating the bill's prohibitions, additional felony offenders may be sentenced to prison. Such an outcome would increase the Department of Rehabilitation and Correction's GRF-funded incarceration costs. The potential

magnitude of that increase annually is uncertain, as the number of additional felony convictions and associated lengths of stay in prison are unknown. The average annual cost to incarcerate an offender in an Ohio prison is currently around \$25,150, with the marginal cost of adding an offender estimated at between \$4,000 and \$5,000.

Violations of the bill's prohibited conduct will also generate additional state revenue in the form of state court costs that a sentencing court is generally required to impose on individuals convicted of a misdemeanor or felony offense. The likely amount to be collected and deposited in the state treasury annually is likely to be minimal. Under existing law, the amount and distribution of those state court costs is as follows:

- For a misdemeanor, a total of \$29, with \$20 being deposited in the Indigent Defense Support Fund (Fund 5DYO) and \$9 being deposited in the Victims of Crime/Reparations Fund (Fund 4020).
- For a felony, a total of \$60, with \$30 being deposited in Fund 5DYO and \$30 being deposited in Fund 4020.