Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 7 of the 130th G.A. **Date**: March 13, 2013

Status: As Reported by House Policy and Legislative Oversight **Sponsor**: Rep. Huffman

Local Impact Statement Procedure Required: No

Contents: Schemes of chance

State Fiscal Highlights

- **Attorney General**. As a result of making a "sweepstakes terminal device" subject to Ohio's Gambling Law, it is possible that the Attorney General may experience an increase in the number of gambling investigations, specifically as it relates to such devices. It is unknown how many investigations could be initiated annually or if existing staffing levels would be sufficient.
- **Filing fee revenues**. The amount of revenue that might be generated from the bill's filing fees is uncertain, but could be in the tens of thousands of dollars annually. These filing fees will be deposited to the credit of the state's existing Charitable Law Fund, also referred to as the Charitable Foundations Fund (Fund 4180) in the state's accounting system, and used to administer and enforce the Gambling Law.
- **Court cost revenues**. As a result of changes made to the Gambling Law, there could be additional persons convicted of related violations and assessed locally collected state court costs. The amount of these court costs generated per year is likely to be minimal at most and would be divided between two existing state funds: the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

- **Local criminal justice systems generally**. Additional Gambling Law violations could be alleged that require investigation and subsequent adjudication. Such a result could trigger additional costs primarily for county and municipal criminal justice systems with jurisdiction over such matters, including law enforcement, courts, prosecutors, public defenders/assigned counsel, and sanctioning systems. Convictions may also generate additional locally retained revenue in the form of court costs and fines imposed on offenders by the sentencing court.

Detailed Fiscal Analysis

The bill modifies the definition of "scheme of chance" and defines, among other terminology, "sweepstakes terminal device." The bill makes such a device subject to Ohio's Gambling Law and requires individuals operating such devices to register with the Attorney General.

Registration of sweepstakes terminal device operators and enforcement

The bill requires persons who conduct a sweepstakes with the use of a sweepstakes terminal device, at a *sweepstakes terminal device facility*, to register with the Attorney General and obtain an annual certificate of registration that carries a $200 filing fee. These operators are also required to file a monthly report with the Attorney General and provide a filing fee of $50.[1]

For those operators that do not operate a sweepstakes terminal device facility, but operate such devices within the parameters outlined in the bill, a certificate of compliance may be applied for with the Attorney General. The fee for a certificate of compliance is $250 and is valid for one year. Such operators are required to file a semiannual report.

The annual and monthly fees associated with these various filings are summarized in Table 1 below.

Proposed Sweepstakes Terminal Device Filing Fees		
Type of Fee	**Fee Amount**	**Frequency**
Certificate of registration	$200	Annual
Monthly report filing fee	$50	Monthly
Certificate of compliance	$250 plus up to $250 for reasonable investigative expenses	Annual, with semiannual report filings (no charge)

[1] The contents of the monthly report will be set later by rule.

As of November 2012, 820 entities had filed affidavits (of existence) with the Attorney General.[2] It is unknown how many of this number will continue to operate should this bill be enacted and subject to one or more of the required filing fees. Thus, the amount of revenue that might be generated from the filing fees is uncertain, but could be in the tens of thousands of dollars annually. These filing fees will be deposited to the credit of the state's existing Charitable Law Fund, also referred to as the Charitable Foundations Fund (Fund 4180). The bill requires these filing fees be used by the Attorney General, or any local law enforcement agency in cooperation with the Attorney General, to administer and enforce the Gambling Law.

The Attorney General is also required to post online a registry of all properly registered and certified sweepstakes terminal device operators. The cost of setting up and maintaining this registry is unknown.

As a result of making a "sweepstakes terminal device" subject to the Gambling Law, it is possible that the Attorney General may experience an increase in the number of investigations involving such devices (the Attorney General may act as the lead investigative agency or assist local law enforcement). It is unknown how many investigations could be initiated annually or if existing staffing levels would be sufficient.

Criminal system costs and revenues

The bill may result in an annual increase in the number of criminal investigations involving the state's Gambling Law, followed by an increase in the number of related criminal cases filed for common pleas, municipal, and county courts to adjudicate. This in turn potentially creates additional costs primarily for county and municipal criminal justice systems, including law enforcement, prosecutors, public defenders/assigned counsel, and sanctioning systems. The latter includes more restrictive residential sanctions (for example, a jail, community-based correctional facility, or halfway house) and less restrictive nonresidential sanctions (for example, basic or intensive probation supervision, day reporting, or electronic monitoring/house arrest).

Fines. If an individual is found to be operating a "scheme of chance" as prohibited under the bill, that individual could be charged with the offense of gambling. A conviction of gambling is a misdemeanor of the first degree (punishable by a maximum sentence of six months in jail, a maximum fine of $1,000, or both), or a felony of the fifth degree if the individual has a prior gambling conviction (generally

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[2] Am. Sub. H.B. 386 of the 129th General Assembly provided that, on and after its effective date through June 30, 2013, no person shall conduct a sweepstakes through the use of a sweepstakes terminal device that has not conducted such a sweepstakes before the effective date of this section. All sweepstakes establishments conducting a sweepstakes through the use of a sweepstakes terminal device, whether or not licensed by a local entity, in existence and operating before the effective date were permitted to continue to operate at only their current locations after the effective date. Such establishments were required to file an affidavit with the Attorney General certifying that the establishment was in existence and operating before the effective date and indicating the address of the establishment.

punishable by community control sanctioning of at least one year and a maximum fine of $2,500, or both). The fine money would be retained by the county in which the trial court is located. Any local court costs assessed and collected from the offender would be retained by the jurisdiction that operates the trial court.

State court costs. With each additional conviction, the state might gain revenue in the form of locally collected state court costs that are forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The amount that might be generated per year is likely to be minimal at most.

In the case of a misdemeanor, the court is generally required to impose state court costs totaling $29, divided as follows: $20 to Fund 5DY0 and $9 to Fund 4020. In the case of a felony, the court is generally required to impose state court costs totaling $60, divided as follows: $30 to Fund 5DY0 and $30 to Fund 4020.

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