



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. Sub. S.B. 141 of the 130th G.A.

Date: June 27, 2013

Status: As Passed by the Senate

Sponsor: Sen. Obhof

Local Impact Statement Procedure Required: No

Contents: Criminal prohibitions related to casino gaming financial transactions and illegal sweepstakes conduct; declares an emergency

State Fiscal Highlights

- As a result of violations of the bill's prohibited conduct, there could be a small number of additional offenders sentenced to a state prison, which may result in a no more than minimal annual increase in the Department of Rehabilitation and Correction's institutional operating costs.
- A minimal amount of state court cost revenue may be collected annually 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), as a relatively small number of additional offenders may be found to have violated the state's Casino Gaming Law or Gambling Law.
- The bill authorizes the Attorney General to adopt rules for enforcement and compliance with the prohibition against illegal sweepstakes conduct, and permits the Attorney General to assess "reasonable" fees related to compliance with those rules. The annual costs that the Attorney General may incur in performing these enforcement and compliance activities are uncertain. The annual magnitude of any fees that might be collected annually is also uncertain.

Local Fiscal Highlights

- **Casino gaming.** The criminal justice systems of Cuyahoga, Franklin, Hamilton, and Lucas counties may incur minimal annual costs to investigate and prosecute violations of the bill's Casino Gaming related prohibited conduct, especially in light of the likelihood that assistance in these matters will be available from the Ohio Casino Control Commission and the Ohio Attorney General. Convictions and guilty pleas may also generate minimal locally retained revenue in the form of court costs and fines imposed on offenders by the sentencing court.
- **Illegal sweepstakes.** 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. The number of criminal investigations and prosecutions that could be generated in any given year in any given local jurisdiction is uncertain.

Detailed Fiscal Analysis

The bill establishes new criminal prohibitions and penalties related to casino gaming and illegal sweepstakes conduct.

Casino gaming

In regards to casino gaming, the bill prohibits a person from "knowingly or intentionally" engaging in certain types of financial transactions or behavior related to financial transactions. These prohibited activities are generally related to what is termed "money laundering." A violation is a felony of the fifth degree on a first offense and a felony of the fourth degree for a subsequent offense. The table below summarizes current law's fines and possible prison terms generally applicable for felonies of the fourth and fifth degree. A court can generally impose a fine, a term of incarceration in jail or prison, or both.

Fines and Possible Prison Terms for Certain Felony Offenses Generally		
Offense Level	Fine	Possible Prison Term
4th Degree Felony	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18-month prison term
5th Degree Felony	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12-month prison term

Under current law, if an offender is convicted of or pleads guilty to any fourth or fifth degree felony that is not an offense of violence, the court, rather than impose a prison term, is generally required to sentence the offender to a community control sanction of at least one year. If certain specified circumstances are present, the court is permitted to impose a prison term.

There are currently four casinos operating within the state, with one located in Cincinnati (Hamilton County), Cleveland (Cuyahoga County), Columbus (Franklin County), and Toledo (Lucas County).

County fiscal effects

The counties most likely to be affected by the bill's prohibited conduct are those in which one of the state's four casinos is located, specifically Cuyahoga, Franklin, Hamilton, and Lucas counties. In those counties, the bill may result in an increase in the number of criminal investigations involving illegal activities related to financial

transactions within casino gaming establishments, followed by an increase in the number of related criminal cases filed by prosecutors for courts of common pleas to adjudicate. This potential increase in investigations and prosecutions could create additional costs, primarily for county criminal justice systems, including law enforcement, prosecutors, public defenders/assigned counsel, common pleas courts, and sanctioning.¹ These potential costs, however, are likely to be no more than minimal annually because: (1) in any given year, there are likely to be a relatively small number of new investigations and criminal cases related to violations of the bill's casino gaming prohibition, and (2) assistance in the investigation and prosecution of these matters is likely to be available from the Ohio Casino Control Commission and the Ohio Attorney General.

As noted, the maximum permissible fines for felonies of the fourth and fifth degree are \$5,000 and \$2,500, respectively. The fines and any related court costs collected from an offender would be retained by the jurisdiction that operates the trial court. The amount retained is likely to be no more than minimal, as the number of offenders convicted of or pleading guilty to a violation of the bill's prohibited conduct is likely to be relatively small.

State fiscal effects

As a result of violations of the bill's prohibited conduct, there may be a few additional offenders sentenced to a state prison, the results of which may be a no more than minimal annual increase in the institutional operating expenses of the Department of Rehabilitation and Correction. The average annual cost for the Department of Rehabilitation and Correction to incarcerate an offender in prison is currently around \$24,390 (or \$66.82 per day), with the marginal annual cost of adding an offender estimated at \$3,600.

With each conviction or guilty plea for a violation of the bill's prohibited conduct, 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 collected year in, year out is likely to be minimal at most, as the expected number of convictions or guilty pleas annually is expected to be relatively small. 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.

The bill also requires the Ohio Casino Control Commission to include in its annual report to the General Assembly information regarding prosecutions for conduct that is subject to the bill's casino gaming prohibition. There will be negligible

¹ Sanctioning costs could include 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).

administrative costs for the Commission to comply with this annual reporting requirement.

Illegal sweepstakes conduct

The bill establishes a criminal prohibition in Ohio's Gambling Law against illegal sweepstakes conduct. Specifically, the bill prohibits a person or entity in relation to any business enterprise from conducting any sweepstakes in which the person or entity, during a calendar year for which the sweepstakes is offered, awards cash or prizes that have a total value of more than 5% of the person's or entity's gross revenue for a business location for that year from the business or entity for which the person offered the sweepstakes to advertise or promote.

A violation of the prohibition 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 offender has a prior gambling conviction (generally punishable by community control sanctioning of at least one year, 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.

The bill authorizes the Attorney General to adopt rules for enforcement and compliance of this provision, and permits the Attorney General to assess "reasonable" fees related to compliance with those rules. The annual costs for the Attorney General to perform these enforcement and compliance activities are uncertain. The annual magnitude of any fees that might be collected annually is also uncertain.

The bill may result in an 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 number of criminal investigations and prosecutions that could be generated in any given year in any given local jurisdiction is uncertain.

The number of additional felony offenders that could be sentenced to a state prison annually for illegal sweepstakes conduct is likely to be relatively small, which means any related increase in DRC's annual institutional operating costs will be minimal.

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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