

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 13, 2005**

**TO:** Honorable Jim Keffer, Chair, House Committee on Ways & Means

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB9** by Flores (Relating to authorizing the operation of video lottery games on behalf of this state; the creation, powers, and duties of the Texas Gaming and Boxing Commission; the powers and duties of the Texas Lottery Commission, the Texas Racing Commission, and the Texas Commission of Licensing and Regulation, and the regulation of gaming in this state; appropriating money; providing penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB9, As Introduced: a positive impact of \$97,188,000 through the biennium ending August 31, 2007.

This analysis reflects changes to state and local revenue only. The tables below do not include administrative costs associated with the implementation of the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	\$6,572,000
2007	\$90,616,000
2008	\$368,022,000
2009	\$544,103,000
2010	\$575,384,000

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND 1</i>	Probable Revenue Gain/(Loss) from <i>New GR Dedicated - Video Lottery Account</i>	Probable Revenue Gain/(Loss) from <i>FOUNDATION SCHOOL FUND 193</i>	Probable Revenue Gain/(Loss) from <i>Cities</i>
2006	\$10,325,000	\$36,422,000	(\$3,753,000)	\$0
2007	\$140,228,000	\$278,014,000	(\$49,612,000)	\$14,427,000
2008	\$454,201,000	\$118,573,000	(\$86,179,000)	\$53,751,000
2009	\$665,849,000	\$156,164,000	(\$121,746,000)	\$83,080,000
2010	\$717,215,000	\$186,855,000	(\$141,831,000)	\$90,044,000

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from Counties</b>	<b>Probable Revenue Gain/(Loss) from Department of State Health Services Compulsive Gambling Program</b>
2006	\$0	\$0
2007	\$7,214,000	\$108,000
2008	\$26,875,000	\$403,000
2009	\$41,540,000	\$623,000
2010	\$45,022,000	\$675,000

## **Fiscal Analysis**

The bill would authorize the operation of video lottery games, allow casino gaming at 12 licensed tourist destinations, abolish the Texas Lottery Commission and the Texas Racing Commission, and establish the Texas Gaming and Boxing Commission to regulate and oversee gaming and boxing operations, including all boxing or combative sports legislation currently overseen by the Texas Commission on Licensing and Regulation.

A seven member committee, the Texas Gaming and Boxing Commission Transition Legislative Oversight Committee, would be created to oversee the transfer of all gaming duties to the Texas Gaming and Boxing Commission.

Video lottery licenses could be approved for any Class I or Class II horse racetrack or greyhound racetrack with a pari-mutuel license (or license application) on June 1, 2005. The bill would provide for agreements between the state and three federally-recognized Indian tribes for the conduct of video lottery operations on tribal lands.

The bill would create GR Account—State Video Lottery. The state would receive 30 percent of all net terminal revenue from video lottery operations, and these funds would be deposited to the new account. Two percent of the state's portion (2 percent of 30 percent of total net terminal income) would be allocated to the Texas Gaming and Boxing Commission to defray expenses for video lottery administration. The prize value of unredeemed video lottery tickets would become the property of the state, and tribes would agree to similar provisions for unclaimed prizes. Racetracks and tribes would have to remit an unspecified fee to the state for each video lottery terminal (VLT) delivered.

The bill would create the Texas Racing Fund. Revenues currently going to the Texas Racing Commission would henceforth be credited to the Texas Racing Fund.

The bill would allow casino gaming at 12 tourist destinations in the state. Each owner of a casino gaming license would be taxed at the rate of 15 percent of the casino's gross gaming revenue. Of this, 5/6ths would be transferred to the General Revenue Fund, 1/9th to the municipality in which the casino was located, and 1/18th to the county in which the casino was located. If the casino were not in an incorporated municipality, the county would receive both the municipality and county shares, or 1/6th of the taxed share of gross gaming revenue. Of the 5/6ths going to the General Revenue Fund, 1/10th of 1 percent would be allocated to the Department of State Health Services, to be used for the Compulsive Gambling Program.

Certain licensed greyhound and horse tracks would be eligible for a casino license—licenses that would be in addition to the 12 casinos authorized elsewhere in the bill.

Portions of the bill concerning video lottery operations would take effect on the date of the passage of the constitutional amendment to authorize a state video lottery system. The portions that would speed up implementation would take effect immediately upon enactment, assuming that the bill received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, those provisions would take effect on September 1, 2005 and expire March 1, 2006.

The provisions relating to casino gaming would take effect on the date of the passage of a constitutional amendment to authorize video lottery and casino gaming.

The provisions concerning the consolidation of functions in the Texas Gaming and Boxing Commission would take effect on the date of the constitutional amendment to authorized video lottery and casino gaming except certain sections would take effect on the date that the Texas Lottery Commission and Texas Racing Commission were abolished, which would be no later than September 1, 2006.

## **Methodology**

This revenue analysis is based on information provided by the Comptroller's Office.

Video lottery revenues would be deposited to GR Account—State Video Lottery, and casino revenues would be deposited to the General Revenue Fund. Municipalities, counties, and the compulsive gambling program of the Department of State Health Services also would receive tax revenue from casino gaming operations. The losses shown below for the Foundation School Account 193 reflect revenue diversion from traditional lottery and bingo attributable to the gaming competition from video lottery and casinos. The gain to the General Revenue Fund for sales tax receipts relates to a net positive effect on the tax due to new construction, and increased investment and income.

The number of VLTs and the speed of implementation assumed for this fiscal note were based on a survey of racetracks and the experience in other states, including contributing factors such as the proposed percentage of net terminal income reserved for the operators and license fees charged per VLT. The amount of revenue per VLT was based on the experience in other states. Because of supply and demand considerations, revenue per VLT is based on the estimated number of VLTs and casino gaming machines operating in the state, with a decline per machine after the total number of operating machines in the state exceeded 20,000.

Revenues from casino gaming were based on the number of gaming machines, the play per gaming machine, and the average ratio of table to machine revenues experienced in other states. A key element was the assumption that eligible tracks would begin with state-operated VLTs and then transition to operations with a casino license in early fiscal 2008. As the tax rate on casinos would be 15 percent—compared to 30 percent on VLTs—a proportionally greater share of gaming in casinos would reduce overall state revenues. In comparison with VLTs, casinos would be slower to generate state revenues, and because of the experience in other states with respect to lags in approving regulations and completing construction, no casino revenue was estimated for fiscal 2006.

Although the bill mentions a license fee per VLT placed in racetracks, it leaves blanks in the wording for this fee. As such, no revenue is assumed from this fee in this fiscal note. Some revenue sources and expenses mentioned in the bill cannot be estimated. These include revenue from intellectual property rights, additional sales tax from Indian tribal lands, revenue from fines for noncompliance, additional revenue from amusement machines at VLT venues, and revenue from application fees and license fee renewals where the bill shows blanks for fee amounts.

The bill does not specify a percentage of net terminal income that the state will collect from Indian tribes, leaving this to gaming agreements between each Indian tribe and the state. Because of an Attorney General's Opinion (GA-0278, dated December 9, 2004), there is a question whether the state would receive any revenues from VLTs and other gaming on tribal lands. Because the bill does not specify a percentage of net terminal income that would be collected from Indian tribes and does not specify a machine license fee for Indian tribes, the portion of state revenue from Indian VLTs cannot be estimated, and the fiscal impact tables do not reflect Indian gaming activity.

The Lottery Commission, Racing Commission, and Attorney General's Office indicate the need for additional FTE's and administrative costs to staff and regulate the new Gaming Commission. These total 29 FTE's in fiscal 2007 growing to 32 FTEs in Fiscal 2010 with administrative costs of \$17.5 million in fiscal 2007 growing to \$67.2 million in fiscal 2010. These FTEs and costs are not reflected in the above table. Additional FTEs would also be required to implement and oversee casino gaming.

The Department of Licensing and Regulation currently has 2.5 FTEs and \$140,309 in administrative costs to regulate boxing and are assumed to be transferred to the new Gaming Commission.

The State Auditors Office indicates the need for additional FTEs and costs of \$119,000 in fiscal 2006 growing to \$380,000 in fiscal 2008 and thereafter associated with an increase in responsibilities to include examination of various components of video lottery operations, including the principal offices of various video lottery contractors. These costs are not reflected in the above table.

Savings associated with the consolidation of agencies into the new Gaming Commission are also not reflected in the above table.

### **Local Government Impact**

The fiscal impact to units of local government are reflected in the above table.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 362 Texas Lottery Commission, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 476 Racing Commission

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