

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 2, 2007

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

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

IN RE: HB3186 by Menendez (Relating to the authorization and regulation of poker gaming and the duties of the Texas Lottery Commission; providing civil and criminal penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3186, Committee Report 1st House, Substituted: a positive impact of \$1,258,189 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$795,993
2009	\$462,196
2010	\$597,196
2011	\$642,196
2012	\$653,196

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND 1</i>	Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND 1</i>	Probable Revenue Gain/(Loss) from <i>Poker Gaming Revenue Fund outside Treasury</i>	Probable Savings/ (Cost) from <i>Poker Gaming Revenue Fund outside Treasury</i>
2008	\$1,821,000	(\$1,025,007)	\$26,939,000	(\$3,907,135)
2009	\$714,000	(\$251,804)	\$40,408,000	(\$3,080,985)
2010	\$849,000	(\$251,804)	\$60,612,000	(\$2,519,385)
2011	\$894,000	(\$251,804)	\$66,673,000	(\$2,519,385)
2012	\$905,000	(\$251,804)	\$67,347,000	(\$2,519,385)

Fiscal Year	Probable Revenue Gain/(Loss) from <i>TEXAS RACING COMM ACCT 597</i>	Probable Savings/ (Cost) from <i>TEXAS RACING COMM ACCT 597</i>	Change in Number of State Employees from FY 2007
2008	\$870,045	(\$870,045)	43.3
2009	\$870,045	(\$870,045)	43.3
2010	\$870,045	(\$870,045)	43.3
2011	\$870,045	(\$870,045)	43.3
2012	\$870,045	(\$870,045)	43.3

Fiscal Analysis

The bill would add a new chapter to the Occupations Code to authorize and regulate poker gaming.

The bill would establish a poker gaming division within the Texas Lottery Commission (TLC) to issue and oversee commercial and charitable operator's licenses. Both electronic and traditional poker tables would be allowed at licensed locations. Racetracks would be allowed the number of tables authorized by TLC rules. Non-track locations would be limited to four tables per establishment—subject to a capital asset requirement of \$1 million.

A tax rate of 18 percent of gross receipts would be established for commercial operators, and a five percent tax would be applied to the gross receipts from charitable poker tournaments. Penalties for delinquent taxes would be established. The bill would establish regulations and penalties for criminal behavior.

The bill would establish application fees and license fees for operators, dealers, manufacturers, distributors, and nonprofit organizations involved in poker gaming. Operators would collect a limited fee on each poker hand played and would be allowed to charge limited buy-in fees, tournament registration fees, and promotion bonus fees. In addition to the gross receipts tax, promotion bonus fees, less administration and gross receipts tax, would be submitted to the state.

The bill would allow federally recognized Indian tribes that have a reservation in this state to obtain a commercial operator's license to conduct poker gaming on their reservations.

The bill would establish the Texas Poker Gaming Revenue Fund, which would exist outside of the State Treasury, to be used to cover the state's associated oversight and regulatory costs. Any remaining balance after operating costs would be transferred to the Texas Department of Housing and Community Affairs, with 50 percent allocated for grants to municipalities, counties, and nonprofits to benefit the homeless population, and the remainder to the Housing Trust Fund established in Section 2306.201 of the Government Code for housing loans and constructing adequate and sanitary housing.

TLC during licensing duties is granted authorization to access Criminal History Record Information (CHRI) maintained by Texas Department of Public Safety (DPS), the Federal Bureau of Investigation (FBI) or another law enforcement agency for the investigation of individuals listed in Section 2004.509 as well as during the license or permit approval process. CHRI searches may be conducted annually.

The bill would take effect on September 1, 2007.

Methodology

The fiscal impact was based on an estimated number of players, the number of tables necessary to meet the demand, table occupancy rates, revenue per player per hour, hours of play, estimated number of license fees and promotions, the proportion of commercial play, the proportion of charitable tournament play, and tax rates. Data from current poker operations in other states were used.

Application and license fees would be payable to TLC and were assumed to be deposited to General Revenue, and poker operations taxes would be payable to the Poker Gaming Revenue Fund. The proportion of revenues from the Poker Gaming Revenue Fund that would be set aside for the Texas Department of Housing and Community Affairs cannot be estimated, as this would depend on indeterminable factors affecting the operating costs of poker gaming. Without an agreement between the state and the Indian tribes, this analysis does not reflect any additional revenue to the state from those games conducted on the Indian reservations.

The bill would allow TLC to determine the maximum number of tables at racetrack locations. The likelihood of multiple poker tables at racetracks and the allowance of four tables, rather than two tables, at other commercial licensed locations results in differences in this estimate from previous poker proposals.

TLC estimates an additional 32 FTEs would be needed to staff the Poker Gaming Division within the agency. The associated costs to the Poker Gaming Revenue Fund for these additional FTEs are estimated to be \$3,907,135 in FY 2008 and \$3,080,985 in FY 2009 and \$2,519,385 each year for FY 2010-2012.

DPS anticipates that the TLC, executive director, or director will conduct name-based CHRI searches for those individuals currently holding licenses, permits, etc. beginning in FY 2009 (40,000 fingerprint-based CHRI searches conducted in FY 2008); FY 2010 (40,000 name-based searches, plus 6,000 fingerprint-based CHRI searches conducted in FY 2009); FY 2011 (46,000 name-based searches plus 6,000 fingerprint-based CHRI searches conducted in FY 2010); FY 2012 (52,000 name-based searches plus 6,000 fingerprint-based CHRI searches conducted in FY 2011). Fees associated with fingerprint-based CHRI's are \$15.00 for the Texas CHRI search fee, \$22.00 for the FBI CHRI search fee and \$2.00 for the Texas FBI processing fee. Subsequent name-based CHRI searches are \$1.00. According to DPS, revenues from these fees are estimated to generate approximately \$1.6 million in FY 2008 and approximately \$280,000 each year thereafter. DPS estimates costs of \$880,000 in FY 2008 and \$132,000 each year thereafter for services rendered to the FBI for the national CHRI check. DPS also estimates the need of an additional three FTEs and associated costs.

To regulate live racing and pari-mutuel wagering at a new horse racetrack, the Racing Commission estimates that each new racetrack will require an additional 8.3 FTEs and \$870,045 in additional appropriations each fiscal year of operation. This estimate is based on a new horse racetrack conducting 100 days of live racing and 364 days of simulcasting. All of the revenue necessary to cover the cost of regulation would be collected from the racetracks through licensing fees, breakage revenue, and outstanding ticket revenue. This analysis assumes one new racetrack will become operational in FY 2008.

The Comptroller's Office estimates administrative costs associated with the technology impact and the need for one additional FTE in 2009-2012. These costs and FTEs are not reflected in the above table.

Note: This legislation would create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Note: The bill language may be subject to interpretation with respect to the funds or accounts into which application and license fees and the state reimbursements mandated by Section 2004.4025(b)(1) would be made. For the purposes of this fiscal note, it was assumed that these revenues would be deposited to the General Revenue Fund 0001.

Technology

There would be a technology cost to the Comptroller's Office of \$112,592 in fiscal 2007 for programming and additional hardware/software. In fiscal 2008, \$328,683 would be necessary for programming, hardware, and software. In fiscal 2009, 2011-12, \$6,575 would be necessary for programming, hardware, and software. In fiscal 2010, \$21,167 would be required for computer costs, including the renewal of licenses. These costs are not reflected in the above table.

TLC estimates a technology cost of \$551,100 in FY 2008.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 458 Alcoholic Beverage Commission, 476 Racing Commission, 304 Comptroller of Public Accounts, 362 Texas Lottery Commission, 405 Department of Public Safety

LBB Staff: JOB, JRO, SD