

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 25, 2007

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: SB1359 by Ellis (Relating to the authorization and regulation of casino gambling and to the creation, powers, and duties of the Texas Gaming Commission; authorizing taxes; providing civil and criminal penalties.), **As Introduced**

Because of the uncertainty surrounding the definition of the components of the tax base, the fiscal impact of this bill cannot be estimated.

Note: The following fiscal impact is provided by the Comptroller's Office and is purely hypothetical and is provided for illustrative purposes only. The actual fiscal impact of this bill, as drafted, cannot be estimated.

- * The estimated revenue gain to General Revenue from the Gaming Tax would be \$211.0 million in fiscal 2008 growing to \$606.1 million in fiscal 2012.
- * The estimated revenue gain to the Texas Casino Gaming Fund would be \$2.7 million in fiscal 2008 growing to \$4.4 million in fiscal 2012.
- * The estimated cost to the Texas Casino Gaming Fund would be (\$2.7 million) in fiscal 2008 growing to (\$3.5 million) in fiscal 2009 and no cost thereafter.
- * The estimated revenue gain to General Revenue from the Sales Tax would be \$13.6 million in fiscal 2008 growing to \$21.5 million in fiscal 2012.
- * The estimated revenue loss to the Foundation School Account - Fund 193 from lost lottery sales would be (\$46.1 million) beginning in fiscal 2009 growing to (\$126.6 million) in fiscal 2012.

The bill would add Chapter 2004 to the Occupations Code to create the Texas Gaming Commission and authorize, regulate, and tax casino gambling in Texas.

The commission would consist of five members serving six-year terms. The commission would award 12 owner's licenses for casino-anchored development projects and establish requirements for each licensee. Seven projects would be in urban areas, allocated by population, two on islands, and three would be placed in areas targeted for economic development, new job creation, or other factors determined by the commission.

The bill would set application fees and license fees for owners, operators, manufacturing providers, casino service providers, equity or creditor interest holders, and occupational licenses. Application and license fees would be payable to the newly created Texas Casino Gaming Fund.

The bill would set a state casino gaming tax of 15 percent of gross gaming revenues. Five-sixths of this tax would be allocated to the General Revenue Fund 0001, payable through the Texas Gaming Commission. One-ninth of the tax would be paid to the municipality in which the casino-anchored development was located, and one-eighteenth would be paid to the county. If the development were not located in a municipality, the county would receive the municipality as well as the county share.

From the portion of tax revenues that would go to Fund 0001, the bill would set aside 1/10th of 1 percent for the Department of State Health Services' Compulsive Gambling Program. In addition, the Fund 0001 share would be reduced by money to increase horse-race purses, to make the average purses for Texas horse races greater than the average purse for similar races in other states. The bill would establish the basis for an appropriation of \$200,000 per biennium to the Department of Public Safety for investigations and prosecutions related to the possession of illegal gambling devices.

The bill would establish procedures and requirements for the holding of local option elections to authorize casino gaming.

The bill would amend Chapter 151 of the Tax Code to exempt electronic and electromechanical devices from the sales tax.

The bill would appropriate all funds in the Texas Casino Gaming Fund to the Texas Gaming Commission for the 2008-09 biennium for operation of the Commission and administration of this Act.

The bill's addition of Subchapter N, Chapter 2004 of the Occupations Code would take effect on September 1, 2007. The remainder of the act would take effect on the date of the passage of a constitutional amendment authorizing the legislature to authorize casino gaming.

Note: The bill would establish the tax base for the 15 percent state casino gaming tax as "gross gaming revenue," which would be defined, essentially, as the casino's "winnings," plus certain other income, "less the total of all cash paid out as losses to patrons. . . ." Because the bill does not define the term "winnings," however, the tax base would be subject to interpretation as to whether "winnings" referred to: 1) the *total* amounts received from bettors, before paying out amounts to patrons, or 2) the *net* gain after patrons had been paid, in which case losses to patrons would be double-counted, likely resulting in a negative tax base and thus zero tax revenue to the state.

Note: Simply for the purposes of illustration, the following methodology was employed to develop an illustrative example of the potential revenue impacts if the tax base was redefined to ensure that losses were not double-counted:

Revenue projections are a function of factors based on experiences in other states. These include the number of gaming machines per casino project, the average revenue per machine, the typical amount of casino revenue from machines and tables, the number of employees and other licenses, and the hours of operation.

The bill does not specify that Indian tribes would share any gaming revenues with the state, so no money was assumed to come to the state from Indian gaming. However, it was assumed that implementation of this bill would lead the state's recognized Indian tribes to provide casino gaming on tribal lands.

Although the bill would exempt gaming machines from the sales tax, construction and development projects would increase sales tax collections. Also, there would be some repatriation of sales tax dollars currently leaving the state by Texans traveling out of state for casino gaming entertainment.

Casino gaming would have a negative impact on lottery revenues. Estimates for these losses were based on the impact of casino gaming on lottery revenues in other states.

Note: The bill 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: This bill would appropriate all funds in the Texas Casino Gaming Fund to the Texas Gaming Commission for the 2008-09 biennium. Although this bill would not make any other appropriations, it would establish the bases for other appropriations.

The Texas Gaming Commission is expected to operate much like the Lottery Division of the Texas Lottery Commission. Therefore, it is estimated that the Gaming Commission will need 273 FTEs and \$62.8 million in appropriations per year.

The Racing Commission estimates it will need an additional 9.0 FTE’s and \$376,000 in appropriations to administer this purse fund and handle the increase in occupational licensees participating in horse racing. All revenue necessary to cover the additional cost of regulation would be collected from occupational licensing fees, racetrack licensing fees, breakage revenue, and outstanding ticket revenue.

Local Government Impact

The impact on units of local government cannot be estimated.

Source Agencies: 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 362 Texas Lottery Commission, 405 Department of Public Safety, 476 Racing Commission

LBB Staff: JOB, SD