LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 8, 2009

TO: Honorable Edmund Kuempel, Chair, House Committee on Licensing & Administrative Procedures

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

IN RE: **HB4062** by Gonzalez Toureilles (Relating to authorizing the operation of video lottery games by licensed horse and greyhound racetrack operators, to providing a defense for the operation of video lottery by Indian tribes, to the authority of the Texas Lottery Commission and the Texas Racing Commission, and to the conduct of gambling in this state; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4062, As Introduced: a negative impact of ($14,216,301) through the biennium ending August 31, 2011.

The bill would appropriate up to $5,000,000 from the new State Video Lottery Account for the state fiscal biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	($14,216,301)
2012	($40,652,249)
2013	($63,751,149)
2014	($77,007,959)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Foundation School Fund* 193	Probable Revenue Gain/(Loss) from *Criminal Justice Planning Fund Account* 421
2010	$0	$0	$0	$0
2011	($3,200,301)	$7,720,000	($18,736,000)	$10,000,000
2012	($1,463,249)	$14,779,000	($53,968,000)	$10,000,000
2013	($4,110,149)	$12,818,000	($72,459,000)	$10,000,000
2014	($6,438,959)	$13,603,000	($84,172,000)	$10,000,000

Fiscal Year	Probable (Cost) from *Texas Racing Comm Account* 597	Probable Revenue Gain from *Texas Racing Comm Account* 597	Probable Savings/ (Cost) from *Lottery Acct* 5025	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated State Video Lottery Account*
2010	($878,420)	$878,420	($2,500,000)	$0
2011	($1,294,436)	$1,294,436	$2,500,000	$113,923,000
2012	($1,294,436)	$1,294,436	$0	$520,686,000
2013	($1,294,436)	$1,294,436	$0	$608,977,000
2014	($1,294,436)	$1,294,436	$0	$677,853,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Texas A&M Equine Research Program (1% of State Video Lottery Income)*	Probable Revenue Gain/(Loss) from *Texas Lottery Commission (Maximum 1% State Video Lottery Income for Administration)*	Probable Revenue Gain/(Loss) from *Texas Racing Commission (10% of State Video Lottery Income for Compulsive Gambling Program)*	Probable Revenue (Loss) from *Performance Horse Development Fund (3% of State Video Lottery Income)*
2010	$0	$0	$0	$0
2011	$1,415,000	$1,415,000	$10,000,000	$4,245,000
2012	$5,625,000	$5,625,000	$10,000,000	$16,875,000
2013	$6,545,000	$6,545,000	$10,000,000	$19,635,000
2014	$7,262,000	$7,262,000	$10,000,000	$21,787,000

Fiscal Year	Change in Number of State Employees from FY 2009
2010	21.0
2011	51.7
2012	56.1
2013	56.1
2014	56.1

Fiscal Analysis

The bill would authorize video lottery games at licensed horse and greyhound racetracks and would provide a defense for video lottery operations by federally recognized Indian tribes.

The bill would add new Subchapter K to Chapter 466 of the Government Code to establish new responsibilities for the Texas Lottery Commission (TLC) and Texas Racing Commission, set application and license fees for video lottery operators, including the right for the TLC to charge up to $50,000 for an annual video lottery retailer license. The bill would authorize TLC expend up to $5 million from the state lottery account from funds already appropriated for the state fiscal biennium ending August 31, 2011 [2010-11 biennium] to establish the video lottery system. The bill would appropriate the first $5 million of state money from video lottery operations during the 2010-2011 biennium to reimburse the state lottery account, and would authorize an ongoing administrative amount of up to 1 percent of the state's share of net terminal income from video lottery games.

The bill would require TLC to establish or cause to be established a video lottery central system to link all video lottery terminals (VLT) in the video lottery system to provide the auditing, security, and other information required by TLC.

The bill would create the State Video Lottery Account as a special account in the General Revenue Fund, and this account would receive 35 percent of total net terminal income from video lottery operations at racetracks each year. The remainder of the net terminal income would be retained by the racetracks, with a provision that the pari-mutuel license holder at each racetrack enter into a written agreement to allocate a percentage of the racetrack's net terminal income to race purses.

Of the state's share of net terminal income each year, $10 million would go to the Texas Racing Commission for the treatment of compulsive gamblers and the promotion of responsible gaming; $10 million would go to the Governor's Criminal Justice Planning Fund for use in prosecuting gambling offenses; one percent would be transferred to the Equine Research Program at the College of

Veterinary Medicine at Texas A&M University; and three percent would fund the Performance Horse Development Fund administered by the Texas Racing Commission, with stipulated percentages distributions for its use in the horse and agriculture industries.

The bill would require the TLC to employ a director to oversee video lottery operations and to enter into an intra-agency agreement with the Texas Racing Commission for the Texas Racing Commission to be responsible for performing inspections and regulatory functions at racetracks on behalf of TLC.

SECTION 38 of the bill would require TLC and the Texas Racing Commission to adopt rules necessary to implement video lottery games as soon as practicable after the constitutional amendment to authorize video lottery by licensed racetrack operators is approved by the voters and becomes effective. The bill would authorize TLC to expend money from its 2010-11 legislative appropriations to conduct pre-implementation activities to establish the state video lottery system before the proposed constitutional amendment is submitted to voters.

With the exception of Section 38, this bill would take effect on the date the constitutional amendment authorizing a video lottery system would be passed by the voters (November 3, 2009). Section 38, which covers pre-implementation activities by TLC, would take effect immediately on receiving a two-thirds vote of legislators in each house. If the act does not receive the vote necessary for immediate effect, Section 38 of the bill would take effect on September 1, 2009.

Methodology

Based on the information and analysis provided by the Comptroller's office, the methodology for state revenue impact is based on net terminal income, estimated number of terminals, and implementation time, and the experience in other states. Revenue to the new GR Account—State Video Lottery was reduced by the amounts the bill would provide to the Texas Racing Commission's Compulsive Gambling program, the Equine Research Program, the Governor's Criminal Justice Planning Account, and the Performance Horse Development Fund. Because it is assumed video lottery operations would require considerable implementation time, including licensing and development or procurement of a video lottery central system, no video lottery revenues are assumed in fiscal 2010. Revenue is assumed to begin in fiscal 2011. Estimated revenues to the above programs are shown separately in the table above. It is assumed all video lottery application fees would be retained by TLC to cover the expenses of the application process. It is not clear where license fees would be deposited, based on an exception for Subchapter K in Section 25 of the bill, but for the purposes of this analysis, the GR Account—State Video Lottery revenue amounts include estimated annual license fees for video lottery retailers and managers.

Also based on the analysis of the Comptroller's office, the analysis assumes that all licensed racetracks would eventually operate video lottery terminals. Because of Attorney General opinion GA-0278, dated December 9, 2004, it is assumed that the state would receive no net terminal income from Indian tribes, but that tribal video lottery operations would provide competition to the racetrack video lottery operations. It is assumed competition for gaming dollars would have a negative impact on the traditional state lottery and bingo. Although gaming losses affect sales tax receipts negatively, the repatriation of state gaming money currently going out of state, in addition to increased construction and economic activity would cause this bill to have a net positive effect on state sales tax revenues.

Based on the information and analysis provided by TLC, it is assumed the agency would require 21 additional full-time-equivalent (FTE) positions beginning in fiscal year 2010 to implement the provisions of the bill with salary costs of $248,350 in fiscal year 2010 and $993,389 each year thereafter. Employee benefits costs associated with the 21 new FTEs are estimated to be $70,954 in fiscal year 2010 and $283,811 each year thereafter. Other costs for professional fees and services (security audits and enforcement), video lottery central system services, information resource technology items, advertising, and other operating expenses are estimated to be $2,180,696 in fiscal year 2010; $5,838,101 in fiscal year 2011; $5,811,049 in fiscal year 2012; $9,377,949 in fiscal year 2013; and $12,423,759 in fiscal year 2014. Based on the provisions of the bill, it is assumed $2.5 million from existing appropriations to TLC from the Lottery Account No. 5025 would be used to cover a portion of the implementation costs in 2010 and 2011. Note: Estimated costs to TLC exceed the administrative allowance of one percent of estimated net terminal income to the state from video lottery gaming. Because the bill does not allow more than $5 million from the Lottery Account No. 5025 to be used to cover the costs of implementation, it is assumed that any required costs above the one percent administrative allowance in each fiscal year would require the use of General Revenue Funds. The estimated costs above the one percent administrative allowance are reflected in the table above as a probable cost from General Revenue Fund.

Based on the analysis of the Texas Racing Commission, it is assumed the agency would require 12 additional FTEs to administer a program for the treatment of compulsive gamblers and the promotion of responsible gaming for total personnel costs of $775,277 each year (including employee benefits) beginning in fiscal year 2011. Additional costs for travel, rent, professional fees and services, and other operating costs are estimated to be $9.8 million each year. It is assumed the cost for this program would be accommodated through the $10 million set aside by the bill for the program. Program costs are not reflected in the table above. Also based on the analysis of the Racing Commission, it is assumed three additional FTEs would be required to administer and distribute funds in the Performance Horse Development Fund. Total personnel costs are estimated to be $174,855 each year (including employee benefits) beginning in fiscal year 2011. Other equipment and rent costs are estimated to be $47,114 in fiscal year 2011 and $32,114 each year thereafter. It is assumed the administrative costs would be covered by video lottery revenue allocated to the fund, and the remainder of the revenue allocated to the fund would be distributed as grants as specified by the bill. The program costs are not reflected in the table above.

Based on the analysis of the Racing Commission, it is assumed the agency would require seven additional FTEs to perform inspections and regulatory functions at racetracks on behalf of TLC. Personnel costs are estimated to be $388,924 each year (including employee benefits) beginning in fiscal year 2010. Other equipment, travel, operating costs are estimated to be $105,326 in fiscal year 2011; $72,576 in fiscal year 2012; and $75,264 each year thereafter. It is assumed the costs would be covered through an interagency contract with TLC through TLC administrative allowance under the provisions of the bill. The costs under the interagency agreement are not reflected in the table above.

The Racing Commission indicates that the provisions requiring racetrack video lottery establishments to apply a percentage of their net VLT income to be used for purses would attract additional race animals, owners, trainers, and animal care providers to the state. Based on the analysis of the Racing Commission it is assumed the agency would require an additional 8.7 FTEs in fiscal year 2011 and an additional 13.1 FTEs each year therafter to staff and monitor additional race dates. Salary costs for the additional FTEs are estimated to be $440,616 in fiscal year 2011 and $660,924 each year thereafter. Employee benefits costs associated with the additional FTEs is estimated to be $125,884 in fiscal year 2011 and $188,826 each year thereafter (28.57 percent of salaries). It is assumed the Racing Commission would assess and collect fees deposited to the Texas Racing Commission Account 597 in an amount sufficient to cover these costs. The associated costs and revenues are reflected in the table above.

Note: This legislation would do one or more of the following: 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. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Technology

Technology costs are estimated to be $625,000 in fiscal year 2010 to establish and maintain a video lottery central computer system.

Local Government Impact

Based on the analysis of the Comptroller's office and the Texas Lottery Commission, it is assumed the provisions of the bill could result in a negative impact to bingo prize fee revenue allocated to participating local jurisdictions.

Source Agencies: 304 Comptroller of Public Accounts, 308 State Auditor's Office, 362 Texas Lottery Commission, 476 Racing Commission

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