

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 5, 2009

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

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

IN RE: SB1084 by Ellis (Relating to the authorization and regulation of casino and slot gaming in this state, the creation, powers, and duties of the Texas Gaming Commission, and the powers and duties of the Texas Racing Commission; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1084, As Introduced: a negative impact of (\$13,836,656) through the biennium ending August 31, 2011.

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
2010	(\$626,834)
2011	(\$13,209,822)
2012	(\$46,105,944)
2013	(\$85,107,944)
2014	(\$102,632,944)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Foundation School Fund 193	Probable (Cost) from Texas Racing Comm Acct 597	Probable Revenue Gain from Texas Racing Comm Acct 597
2010	\$1,481,166	(\$2,108,000)	(\$641,781)	\$641,781
2011	\$2,849,178	(\$16,059,000)	(\$1,078,000)	\$1,078,000
2012	(\$84,944)	(\$46,021,000)	(\$1,505,171)	\$1,505,171
2013	(\$3,764,944)	(\$81,343,000)	(\$1,510,974)	\$1,510,974
2014	(\$5,121,944)	(\$97,511,000)	(\$1,516,771)	\$1,516,771

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Higher Education Trust</i>	Probable Revenue Gain/(Loss) from <i>Problem Gambling & Addiction Grants</i>	Probable Savings/ (Cost) from <i>State Highway Fund</i> 6	Probable Revenue Gain/(Loss) from <i>State Highway Fund</i> 6
2010	\$0	\$0	(\$511,872)	\$0
2011	\$141,507,000	\$142,000	(\$451,454)	\$9,056,000
2012	\$500,272,000	\$512,000	(\$449,059)	\$12,584,000
2013	\$724,770,000	\$748,000	(\$467,876)	\$21,232,000
2014	\$807,934,000	\$836,000	(\$471,999)	\$24,762,000

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Equine Racing Purse Trust Fund</i>	Probable Revenue Gain/(Loss) from <i>Greyhound Racing Purse Trust Fund</i>	Probable Revenue Gain/(Loss) from <i>Texas Casino & Slot Gaming Fund</i>	Probable Revenue Gain/(Loss) from <i>Cities</i>
2010	\$0	\$0	\$0	\$0
2011	\$51,033,000	\$9,612,000	\$3,135,000	\$0
2012	\$119,010,000	\$22,416,000	\$3,405,000	\$6,081,000
2013	\$143,439,000	\$27,017,000	\$3,883,000	\$11,680,000
2014	\$149,252,000	\$28,112,000	\$4,007,000	\$14,074,000

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Counties</i>	Change in Number of State Employees from FY 2009
2010	\$0	288.3
2011	\$0	292.7
2012	\$6,081,000	297.0
2013	\$11,680,000	297.0
2014	\$14,074,000	297.0

Fiscal Analysis

The bill would create the Texas Gaming Commission and authorize, regulate, and tax casino gambling by adding new Chapters 2021, 2022, and 2023 to the Occupations Code. The commission would be required to award nine owner's licenses for casino-anchored development projects and establish requirements for each licensee. Seven projects would be in urban areas, allocated by population, and two would be on certain islands in the Gulf of Mexico. The commission could issue six additional casino owner's licenses, with three in areas where a casino would have a significant positive economic impact, and one casino owner's license each to the three federally recognized Indian tribes in Texas. The bill would authorize racetracks licensed to conduct pari-mutual racing to apply for a license to operate a slot establishment where slot machine gaming devices would be allowed.

The bill would set application fees and annual license fees for owners, operators, manufacturing providers, casino service providers, equity or creditor interest holders, and occupational licenses. The bill would create a Texas Casino and Slot Gaming Fund as a special fund in the Texas treasury. Application, investigation, and license fees would be payable to this fund. This fund could be used only for the operation of the commission and administration of Chapter 2022. The Legislature could transfer excess money in that fund to GR Account—Higher Education Trust, as created by this bill, an account to be used only to provide additional financial aid for resident students.

A state gaming tax of 15 percent of gross gaming revenues would be set for casinos, and a tax of 35 percent would be imposed on the net slot income of holders of a slot establishment owner's license. Revenues from this tax would be allocated to GR Account—Higher Education Trust, with the following exceptions: (1) one-thirtieth of the casino tax would be allocated to the municipality in which the casino development is located and another one-thirtieth would be paid to the county; (2) one-fifteenth of the casino tax would be allocated to a county if the development were not located in a municipality; (3) one-thousandth of both taxes would allocated to new GR Account—Problem Gambling and Addiction Grant; and (4) \$200,000 may be appropriated each state fiscal biennium to the Department of Public Safety to investigate and prosecute offenses related to the possession of gambling devices.

The bill would establish an Equine Purse Trust Fund and a Greyhound Purse Trust Fund, each outside

the state treasury and held in trust by the Comptroller, to be used to increase the value of purses paid at Texas racetracks. Each horse racetrack with a slot establishment license would remit 15 percent of its gross gaming revenues from its slot machines to the Equine Purse Trust Fund and each greyhound racetrack would remit 15 percent of its gross gaming revenues from slot machines to the Greyhound Purse Trust Fund.

The Comptroller would be directed to determine the net amount of receipts collected from a casino or slot establishment from sales, motor vehicle sales and rental, hotel occupancy, franchise and mixed beverage taxes, and deposit those amounts to State Highway Fund 0006, to be used only for transportation in this state.

The bill would abolish the Texas Racing Commission, and its current duties would be transferred to a division of the Texas Gaming Commission. The Texas Gaming Commission Transition Legislative Oversight Committee would be created to facilitate the transition. The GR Account 0597—Texas Racing Commission, would be renamed the GR Account 0597—Texas Racing Fund, and its money could be appropriated only for administration and enforcement activities of this bill.

The sections of the bill regarding the transition of laws from the Texas Racing Commission would take effect on the date the Texas Racing Commission is abolished, which would be on or before September 1, 2010. The remainder of the bill would take effect on the date the voters approve the constitutional amendment to authorize slot machines and casino games. If that amendment is not approved by the voters, this bill would have no effect.

The Texas Gaming Commission would be responsible for licensing procedures including application, investigation, suitability determination as well as regulatory oversight. The Commission is entitled to obtain Criminal History Record Information (CHRI) maintained by the Texas Department of Public Safety (TXDPS), the Federal Bureau of Investigation (FBI), or other law enforcement agencies to assist in the investigation of any person directly involved in gaming under this subtitle.

Methodology

Estimates of this bill's revenue implications are a function of factors, including the provisions of the bill and experiences in other states. These include the number of casinos authorized, the number of tracks authorized, number of gaming machines per track and casino project, the average revenue per machine, the typical amount of casino revenue from tables, the number of employees and other licenses, and the hours of operation. For the purposes of this fiscal note, it is assumed that every allowable casino would be built, although it would depend on a majority of voters approving casino gambling in each targeted county. Also, each holder of a valid pari-mutuel racing license on January 1, 2009, is expected to implement or resume racing, meet the necessary capital investment requirements of the bill, and get a slot establishment operators license.

The bill does not specify that Indian tribes would share any gaming revenues with the state, so no money is expected to come to the state from Indian gaming. However, it is assumed that implementation of this bill would lead the state's recognized Indian tribes to provide casino gaming on tribal lands, and this competition would have an estimated impact on the level of gaming in the state's non-Indian casinos and slot establishments. 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 because of Texans traveling out of state for casino gaming entertainment. Casino gaming would have a negative impact on lottery and bingo revenues. Estimates for these losses were based on the impact of casino gaming on lottery and bingo revenues in other states.

Because the bill specifies that the Texas Gaming Commission would approve gaming licenses, but that it would not be required to be formed until September 1, 2010, no casino or slot gaming revenue is expected during the 2010 fiscal year. As tracks are already licensed for pari-mutual wagering, it is assumed they would begin to come on line in fiscal 2011. Casinos are assumed to begin to come on line in 2012

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. 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 and Slot Gaming Fund to the Texas Gaming Commission for the 2010-11 biennium. This bill would establish the basis for other appropriations.

The 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 \$59.4 million per year. The operation and administration of the Commission is to be supported by the fees generated and a portion of the taxes imposed.

This analysis assumes that seven horse racetracks and three greyhounds tracks will apply and be granted slot establishment owner's licenses. Based on analysis provided by TRC, it is anticipated that pari-mutuel license holders would request and be granted additional race days for both horse and greyhound events. To regulate the additional events, the Texas Gaming Commission would require an additional 4.4 FTEs in FY2010, 8.7FTEs in FY2011, and 13FTEs in each year of FY2012-FY2014. Additionally, the added race dates would result in an increase in grant funds for the Texas Bred Program. In FY2010, these additional FTEs would cost \$312,723 and the anticipated additional grant funds would be \$130,237.

Based on analysis provided by TRC, it is anticipated that the increased purse amounts at the horse and greyhound races would lead to an increase in racetrack license revenue and increased costs due to fingerprinting and background check costs. The increased revenue to the Texas Racing General Revenue Dedicated Account #597 is estimated to be \$19,408 in FY2010, \$82,669 in FY2011, \$168,123 in FY2012, \$212,580 in FY2013, and \$256,989 in FY2014. The anticipated costs for processing the licenses is \$2,533 in FY2010, \$10,792 in FY2011, \$21,947 in FY2012, \$27,750 in FY2013, and \$33,547 in FY2014.

Since regulation of pari-mutuel racing is required to covers its cost of operation, this analysis assumes that any increased costs resulting from the implementation of the provisions of this bill would be offset with fee-generated general revenue-dedicated funds.

The Department of Public Safety (DPS) estimates the Gaming Commission will conduct finger-print based Criminal History Record Information background searches of all license catagories. Costs to Fund 6 for DPS to provide these searches is estimated to be approximately \$500,000 per fiscal year plus an additional 9 FTEs per fiscal year. Revenue from the fees associated with these searches is estimated to be approximately \$1.7 million to General Revenue in each fiscal year 2010 and 2011 and then approximately \$500,000 in each fiscal year thereafter.

The bill requires the governor to enter into a gaming agreement with federally recognized Indian tribe with Indian lands in the state of Texas that would allow the tribe to have casinos. In order to comply with this requirement, the Office of the Governor anticipates a cost, to the General Revenue fund, for outside legal counsel and other related professional services that specializes in this field. Anticipated cost for outside legal counsel and other related professional fees is estimated to be \$250,000. This cost is not reflected in the above table.

Local Government Impact

The bill would require political subdivisions to hold local option elections to legalize or prohibit the operation of casinos and slot gaming.

According to information provided by the Texas Association of Counties (TAC), the provisions of the bill related to calling for a local option election would be significantly costly to counties because the of the potential number of elections that could occur. No data was available on which to project estimates for costs and revenue if a county legalizes casinos and slot gaming.

According to information provided by various municipalities, similar to that provided by TAC, there

would be costs associated with conducting elections, and unknown revenue gain if voters legalize casinos and slot gaming.

Source Agencies: 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 360 State Office of Administrative Hearings, 362 Texas Lottery Commission, 405 Department of Public Safety, 476 Racing Commission, 601 Department of Transportation

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