

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 28, 2011

TO: Honorable Mike Hamilton, Chair, House Committee on Licensing & Administrative Procedures

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

IN RE: HB382 by Menendez (Relating to the authorization and regulation of poker gaming and the duties of the Texas Lottery Commission; providing civil and criminal penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB382, As Introduced: a positive impact of \$634,400 through the biennium ending August 31, 2013.

However, the impact to the Poker Gaming Revenue Fund in 2016 is estimated to be \$43,781,701.

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
2012	\$177,200
2013	\$457,200
2014	\$707,200
2015	\$769,200
2016	\$832,200

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Poker Gaming Revenue Fund</i>	Probable Savings/ (Cost) from <i>Poker Gaming Revenue Fund</i>	Probable Savings/ (Cost) from <i>Texas Racing Comm Acct 597</i>
2012	\$177,200	\$4,667,000	(\$3,967,301)	(\$924,651)
2013	\$457,200	\$18,772,000	(\$3,404,899)	(\$1,807,910)
2014	\$707,200	\$37,348,000	(\$2,843,299)	(\$1,807,910)
2015	\$769,200	\$42,008,000	(\$2,843,299)	(\$1,807,910)
2016	\$832,200	\$46,625,000	(\$2,843,299)	(\$1,807,910)

Fiscal Year	Probable Revenue Gain/(Loss) from Texas Racing Comm Acct 597	Change in Number of State Employees from FY 2011
2012	\$924,651	37.8
2013	\$1,807,910	45.0
2014	\$1,807,910	45.0
2015	\$1,807,910	45.0
2016	\$1,807,910	45.0

Fiscal Analysis

The bill would add new Chapter 2004 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. Traditional (not electronic) 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.

The bill would impose a tax of 18 percent on the poker gaming gross receipts received by commercial operators, but the tax rate on operators with a pari-mutuel racing license would be 16 percent of the poker gaming gross receipts. A 5 percent tax would be applied to the poker gaming gross receipts from charitable poker tournaments. Penalties for delinquent taxes would be established. The bill would establish regulations and penalties for criminal behavior. The Comptroller would deposit the revenue from this tax to the new Texas Poker Gaming Revenue Fund.

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 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 in this fund, after operating costs, would be transferred to the Texas Department of Housing and Community Affairs (TDHCA), with 50 percent allocated for grants to municipalities, counties, and nonprofit organizations to benefit the homeless population and 50 percent for the Housing Trust Fund for housing loans and constructing adequate and sanitary housing.

The bill would take effect on September 1, 2011.

Methodology

The fiscal impact was primarily based on an estimated number of players, 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, tax rates and license fees, the number of tables necessary to meet the demand, and the effect of a \$1 million capital asset requirement on acquiring a commercial license. Data from current poker operations in other states and estimates of the number of commercial Texas businesses that would qualify for a poker license were obtained from the Texas Alcoholic Beverage Commission and TLC.

Poker operations taxes would be payable to the Poker Gaming Revenue Fund. Distributions from the fund cannot be estimated, as this would depend on indeterminable factors affecting the operating costs of poker gaming.

The bill would require TLC to adopt rules and procedures by January 1, 2012. Time would be required for licensing and acquisition of poker gaming equipment (e.g., tables). Estimates reflect a lag

in the implementation of the gaming facilities, which varies from bills in previous sessions that included electronic poker applications.

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: As drafted, revenue from the taxes imposed on gaming gross receipts would go to the Poker Gaming Revenue Fund and revenue from the fees on applications and licenses would be deposited in an unnamed fund.

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 General Revenue Fund 0001.

TLC has estimated the cost to the state based on its experience with regulation of Charitable Bingo. The powers and duties laid out in the bill are similar to those of Charitable Bingo; therefore it is projected that a Poker Gaming Division would be similar in structure. The commission estimates an additional 30 FTEs would be needed.

The Texas Racing Commission (TXRC) estimates that two of the six currently authorized but inactive racetracks would become active. TXRC will need additional staff and related operating costs to oversee regulation at these new tracks. The revenue necessary to cover the regulatory costs would be collected through license and racing fees and allocations of wagering-related revenue.

TXRC also estimates that there will be a new source of purse money to fund additional live race days. An increase in live race days creates a corresponding need for additional FTEs in order to provide the necessary regulation at all the tracks that request additional live race days. The revenue necessary to cover the regulatory costs would be collected through racing fees and allocations of wagering-related revenue.

According to the Department of Public Safety, applicant fees for criminal history information will generate \$27,200 in revenue to the General Revenue Fund 001 in each fiscal year from FY12-16.

The Office of the Attorney General indicates that there could be increased costs associated with additional opinion requests and contested-case and judicial-review proceedings.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 362 Texas Lottery Commission, 405 Department of Public Safety, 458 Alcoholic Beverage Commission, 476 Racing Commission

LBB Staff: AG, JOB, SD