

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: HB2111** by Woolley (Relating to the operation of video lottery games by licensed horse and greyhound racetrack operators, to 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 HB2111, As Introduced: a negative impact of (\$46,117,400) through the biennium ending August 31, 2013.

However, the positive all funds impact would be \$284.3 million in fiscal year 2012 growing to \$713.4 million in fiscal year 2016.

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	(\$6,721,200)
2013	(\$39,396,200)
2014	(\$58,078,200)
2015	(\$89,728,200)
2016	(\$104,360,200)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Savings/ (Cost) from Foundation School Fund 193	Probable Savings/ (Cost) from New GR-Dedicated - State Video Lottery Account	Probable Revenue Gain/(Loss) from New GR-Dedicated - State Video Lottery Account
2012	(\$382,200)	(\$6,339,000)	\$0	\$271,391,000
2013	(\$3,279,200)	(\$36,117,000)	(\$6,084,832)	\$276,792,000
2014	(\$4,989,200)	(\$53,089,000)	(\$14,938,208)	\$436,060,000
2015	(\$7,920,200)	(\$81,808,000)	(\$24,463,722)	\$700,841,000
2016	(\$9,384,200)	(\$94,976,000)	(\$34,547,320)	\$824,032,000

Fiscal Year	Probable Savings/ (Cost) from <i>Lottery Acct</i> 5025	Probable Revenue Gain/(Loss) from <i>Lottery Acct</i> 5025	Probable Revenue Gain/(Loss) from <i>Texas Racing Comm</i> <i>Acct</i> 597	Probable Revenue Gain/(Loss) from <i>Criminal Justice Plan</i> <i>Ac</i> 421
2012	(\$858,400)	\$664,000	\$10,000,000	\$10,000,000
2013	(\$138,006)	\$2,962,000	\$10,000,000	\$10,000,000
2014	\$996,406	\$4,553,000	\$10,000,000	\$10,000,000
2015	\$0	\$7,201,000	\$10,000,000	\$10,000,000
2016	\$0	\$8,433,000	\$10,000,000	\$10,000,000

Fiscal Year	Probable Savings/ (Cost) from <i>State Highway Fund</i> 6	Change in Number of State Employees from FY 2011
2012	(\$207,370)	22.3
2013	(\$173,084)	22.3
2014	(\$173,084)	22.3
2015	(\$177,038)	22.3
2016	(\$190,579)	22.3

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 a new Subchapter K to Chapter 466 of the Government Code to establish new responsibilities for the Texas Lottery Commission and Texas Racing Commission (TRC), set application and license fees for video lottery operators, including the right for the Texas Lottery Commission (TLC) to charge up to \$50,000 for an annual video lottery retailer license. The first \$5 million of state money from video lottery operations could be spent from the state lottery account until January 1, 2015.

The bill would create a new GR Account—State Video Lottery, and this account would receive 30 percent of total net terminal income from video lottery operations at racetracks each year. The remainder of the terminal income would be retained by the racetracks, with requirements that pari-mutuel license holders distribute specified shares of their net terminal income (outside the state treasury) to capital improvements and horse or canine organizations. The bill would set aside ongoing administrative amounts of up to 1 percent of the state's share of net terminal income to the TLC. The bill also would require annual payments of \$10 million from the state's share to the TRC for the treatment of compulsive gamblers and the promotion of responsible gaming and another \$10 million to the criminal justice planning fund of the Governor's Office for use in prosecuting gambling offenses.

Racetrack managers or retailers would be required to submit an application fee before September 1, 2011, to the TLC to be issued a video lottery license. The application fee for Class I racetracks would be \$25 million and the fee for class 2 and class 3 horse tracks and greyhound tracks would be \$15 million.

With the exception of Section 39, this bill would take effect on the date the constitutional amendment authorizing a video lottery system would be passed by the voters (November 8, 2011). Section 39, which covers pre-implementation activities by the 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 39 of the bill would take effect on September 1, 2011.

Methodology

The analysis is based on net terminal income, estimated numbers of video lottery terminals, and ramp-up time, based on surveys and the experience in other states. The estimate includes money for administrative costs from net terminal income, which are shown in the fiscal impact as a gain to the TLC's budget. A \$5 million loan from the State Lottery Account to be repaid by the State Video

Lottery Account is internal to the TLC and is revenue neutral to the state. GR Account—State Video Lottery was also reduced by the amounts the bill would provide to the TRC's Compulsive Gambling program, the Governor's Criminal Justice Planning Account, and the start-up costs from the state lottery account. Revenue shown in fiscal 2012 and credited to the new State Video Lottery Account is from application fees due by September 1, 2011(\$225,000,000), with an assumption that operating tracks would each apply for a video lottery license by that date, and some machine revenue as implementation is assumed to have started. Application fees for retailers and managers would be retained by the TLC to cover the expenses of the application process.

Competition for gaming dollars would have a negative impact on the traditional state lottery and bingo. The fiscal impact tables assume that all licensed racetracks would eventually operate video lottery terminals. Because of Attorney General opinion GA-0278, dated December 9, 2004, no net terminal income is assumed to come to the state from Indian tribes, but that tribal video lottery operations would provide competition to the racetrack video lottery operations. 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.

The Texas Lottery Commission would require an additional 20 FTEs to implement the provisions in the bill.

The Department of Public Safety would require an additional 2.3 FTEs to train and fingerprint employees. Applicant fees for fingerprinting would result in a revenue gain of \$227,800 to General Revenue in each fiscal year.

In accordance with Government Code 321.013, all additional duties and responsibilities prescribed by the bill would be evaluated for inclusion in the SAO's annual audit plan for Legislative Audit Committee approval.

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. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 308 State Auditor's Office, 362 Texas Lottery Commission, 405 Department of Public Safety, 476 Racing Commission

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