

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: HB3576 by Thompson (Relating to the operation of casino gaming in this state by federally recognized Indian tribes on certain land and by licensed operators at horse and greyhound racetracks and licensed locations; providing penalties.), **As Introduced**

Depending upon the number of Indian tribes that would conduct gaming and upon other unpredictable provisions in the bill, there could be an indeterminate fiscal impact to the state.

The bill would allow casino gaming on—or within five miles of—the tribal lands of federally recognized Indian tribes. In consideration of the exclusivity of gaming that the bill would provide, federally recognized tribes may enter into a gaming compact with the state to allow casino games and pay the state no less than eight percent of its gross gaming revenues. If the state allowed video lottery terminals in the future within 70 miles of a tribe's lands or a future racetrack within 100 miles of Indian lands, the tribe could cease these payments.

In addition, and notwithstanding other law, the bill would allow casino gaming at licensed horse and greyhound racetracks. The state lottery commission would have the authority to set rules for racetrack licenses and operations and would have the authority to conduct investigations of all casino gaming operations. The commission would be required to adopt rules for casino gaming no later than December 31, 2011.

The bill does not require Indian tribes to enter a gaming compact with the state, but it codifies limitations for a compact if one is negotiated. The bill would require that the gross gaming revenue payments from Indian tribes be made to the comptroller in part IX of subchapter D, but in subchapter E, it would require that this eight percent be paid to the lottery commission. The bill would leave the administration, including specific state revenue percentages and license fees, of casino gaming at racetracks to the lottery commission. The commission would have the authority and responsibility to oversee casinos.

The bill does not specify revenue particulars for racetrack casinos, does not set a time-line for their casino gaming operations, does not require Indians or racetracks to conduct casino gaming, and relinquishes the state's share of revenue from Indian casino gaming if the state authorized comparable gaming activity within the state distances from tribal lands. Also, the Texas Attorney General Opinion GA-0278, dated December 9, 2004, casts doubt on the state's authority to collect gaming revenues from Indian tribes on the basis of state law alone. Because of these unknowns, the amount of state and local revenue that might be generated cannot be estimated.

The Texas Racing Commission estimates that six currently authorized but inactive horse racetrack licensees would build and begin operations. TXRC estimates that of the six licensees, two would become active by opening facilities for live horse racing in FY2012, two would become active in FY2013, and the two remaining racetrack licensees would become active by opening facilities for live horse racing in FY2014. The TXRC will need additional staff and related operating costs to oversee regulation at these six new active racetracks. Additionally, the TXRC estimates additional live race dates/performances would be added to the four active horse racetracks and the three active greyhound racetracks. The TXRC will need additional staff and related operating costs to oversee regulation for

these additional live race dates/performances at these seven existing active racetracks. There will be a fiscal impact to the agency with respect to the need to provide support in terms of computer technology support, human resources support, and general administrative support to the additional regulatory program staff. The revenue necessary to cover the additional regulatory costs would be collected through license and racing fees and allocations of wagering-related revenue.

The Department of Public Safety indicates they would require additional employees to conduct criminal history checks and background investigations, as well as to enforce, inspect, and monitor the casinos.

The bill would take effect on December 15, 2011, if the constitutional amendment to allow casino gaming is approved by the voters.

Local Government Impact

The fiscal impact to units of local government cannot be estimated.

Source Agencies: 304 Comptroller of Public Accounts, 362 Texas Lottery Commission, 405 Department of Public Safety, 476 Racing Commission

LBB Staff: AG, JOB, SD