

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: HJR112 by Menendez (Proposing a constitutional amendment creating the Texas Gaming Commission and authorizing and regulating casino games and slot machines by licensed operators and certain Indian tribes to provide money for the property tax relief fund and additional financial aid for higher education students.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HJR112, As Introduced: a negative impact of (\$11,313,477) through the biennium ending August 31, 2013.

However the positive all funds impact would be \$252.4 million in fiscal year 2012 growing to \$828.8 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	(\$917,308)
2013	(\$10,396,169)
2014	(\$6,464,462)
2015	(\$3,491,373)
2016	\$11,194,627

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Texas Casino & Slot Gaming Fund</i>	Probable Savings/ (Cost) from <i>Texas Casino & Slot Gaming Fund</i>	Probable Savings/ (Cost) from <i>General Revenue Fund 1</i>	Probable Revenue Gain/(Loss) from <i>General Revenue Fund - Compulsive Gambling Program 1</i>
2012	\$318,982,000	(\$65,699,167)	(\$610,308)	\$2,399,000
2013	\$342,649,000	(\$65,699,167)	(\$521,169)	\$9,144,000
2014	\$521,186,000	(\$65,699,167)	(\$517,462)	\$20,247,000
2015	\$646,551,000	(\$65,699,167)	(\$468,373)	\$35,266,000
2016	\$883,304,000	(\$65,699,167)	(\$468,373)	\$48,180,000

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund - Tx Gaming Commission for Gambling Offenses 1	Probable Revenue Gain/(Loss) from General Revenue Fund - Bingo 1	Probable Savings/ (Cost) from Foundation School Fund 193	Change in Number of State Employees from FY 2011
2012	\$1,599,000	(\$378,000)	(\$3,927,000)	223.0
2013	\$6,096,000	(\$2,223,000)	(\$22,892,000)	223.0
2014	\$13,498,000	(\$3,551,000)	(\$36,141,000)	223.0
2015	\$23,511,000	(\$5,598,000)	(\$56,202,000)	223.0
2016	\$32,120,000	(\$6,308,000)	(\$62,329,000)	223.0

Fiscal Analysis

The resolution proposes a constitutional amendment to create the Texas Gaming Commission, authorize and regulate casino games, authorize and regulate slot machines at licensed pari-mutuel racetracks, provide for federally recognized Indian tribes to conduct casino games, and set aside money to be appropriated for property tax relief and financial aid for higher education students. The resolution would establish the Texas casino and slot gaming fund, a special fund of the treasury, into which all casino and slot-related revenue collected by the state would be deposited.

The resolution would require the Governor to appoint a Texas Gaming Commission by January 1, 2012, and this commission would be required to adopt rules necessary to implement casinos and slot machine establishments by March 1, 2012. Up to eight slot establishments could be licensed at racetracks, up to six casino gaming licenses could be issued to casino-anchored destination attraction development projects, and up to two more casino licenses could be issued to development projects on Gulf islands with at least 1,000 guest rooms for visitors on January 1, 2011.

The application fee for an owner's license for a casino would be \$50 million, and the application fee for a slot establishment would be \$25 million. A tax of 15 percent of gaming revenue would be imposed on casinos, and a tax of 35 percent would be imposed on gross slot income at racetracks. The resolution would require that Indian tribes choosing to operate casinos enter a compact agreement with the state and remit a portion of their gaming revenues to the state.

The resolution would set aside 1/30th of the tax collected by the state to the municipality in which a casino is located, 1/30th to the county (or 1/15th to the county if the casino is not located in a municipality), 1/20th to general revenue to be appropriated to a compulsive gambling program, and 1/30th to general revenue to be appropriated to the Texas Gaming Commission to investigate and prosecute gambling offenses. Remaining gaming tax revenue would be dedicated to property tax relief. Nongaming state taxes collected at casinos and slot establishments would be deposited in general revenue to be appropriated to the TEXAS grant program.

The proposed amendment would be submitted to the voters at an election to be held November 8, 2011.

Methodology

This resolution is self-enacting and has the terms necessary, with the exception of Indian tribal gaming, to calculate a fiscal impact. The analysis is based on the estimated number of gaming machines, the average ratio of gaming revenue from tables to machines, the ramp-up time for slot establishments and casinos in other states, average play per gaming machine in other states, competition effects based on the number of gaming machines, the impact on the traditional lottery and bingo, and impacts on sales tax related to capital gains and gaming dollars "repatriated" to Texas. Non-gaming taxes, to be deposited toward the TEXAS grant program, cannot be estimated.

Because of time necessary to establish rules and regulations, develop infrastructure, and acquire operating systems, most revenue expected in fiscal 2012 is from application fees (\$325,000,000). The full number of slot establishments and casinos allowed by the resolution are assumed to apply for a license, but based on experience in other states, the full complement of licenses will not occur in one

year.

Indian casino operations will provide gaming competition to state revenues, but the positive revenue from the state from Indian casino operations cannot be estimated without a compact between the Indians and the state. As a hypothetical example, a 5 percent state tax on Indian casino operations would increase state revenues by about \$25 million per year at full implementation.

This analysis assumes the new Gaming Commission will be structured similar to the Lottery Commission. Therefore, 217.5 additional FTEs will be required and administrative costs of \$65,699,167 per year to the new Casino & Slot Gaming Fund.

Given the amount of litigation that will be generated from the licensing and regulation of casinos in Texas, the Office of the Attorney General (OAG) will need an additional one full-time Assistant Attorney General VI, two full-time Assistant Attorneys General III, one full-time Legal Assistant II, and one full-time Legal Secretary II to handle the increased workload. Additionally, OAG anticipates that there would be some litigation testing the parameters of the Gaming Commission's rules related to the administration of the gross receipts tax. The OAG will need an additional half-time Assistant Attorney General III during FY2013 and FY2014 to handle those cases. The fiscal impact to the OAG is \$504,813.00 in fiscal year 2012, \$521,168.50 in fiscal year 2013, \$517,461.50 in fiscal year 2014 and \$468,373.00 in fiscal years 2015-2016.

The cost for publication of the resolution is \$105,495.

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

The bill would allow counties to legalize gambling upon filing a petition and holding an election on the next uniform election date in which the majority of voters support legalizing gambling in that county. Based on costs reported to the Secretary of State (SOS) in 2010 by a sampling of counties, municipalities, and special districts, the average cost incurred by a local government entity for an election held is \$1.98 per registered voter; these costs would vary by county but are not anticipated to be significant.

The bill would also allocate a portion of the revenue generated by gaming taxes to counties and municipalities. While this revenue could potentially be significant, it would vary depending on whether voters legalize gambling in a given county, whether a licensed casino would be located in a given locality and the amount of revenue generated by said casino.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts

LBB Staff: AG, JOB, SD, KKR