

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 23, 2013

TO: Honorable Wayne Smith, Chair, House Committee on Licensing & Administrative Procedures

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB109** by Raymond (Relating to local option elections to legalize or prohibit the operation of eight-liners and the imposition of a fee on eight-liner owners; providing penalties.), **As Introduced**

There would be an indeterminate gain to the state as a result of the bill. Gains depend upon which local jurisdictions would opt for an election, whether the outcome would be to either legalize or prohibit eight liners, and the number of machines that would be deployed in those counties choosing legalization. In addition, there would be an estimated \$1.2 million administrative cost to the Comptroller of Public Accounts.

The bill would amend the Occupations, Penal and Election Codes to establish procedures for local option elections to legalize or prohibit the operation of eight-liner electronic gaming machines in political subdivisions.

The bill would add new Chapter 502 to the Election Code to establish procedures for counties, justice precincts or municipalities to conduct elections to legalize or prohibit the operation of eight-liners as defined by the provisions of the bill.

The bill would add new Subchapter K to the Occupations Code to impose an annual fee of \$350 for each eight-liner machine that an owner exhibits or displays that would be prorated by the quarter in which machines are put into operation. The Comptroller would collect the fee and deposit 30 percent of the revenue to the General Revenue Fund. The remaining 70 percent would be distributed to the municipality or county in which the eight-liner is located. Eight-liners, as defined by this bill, would be exempted from the provisions for amusement redemption machine licenses.

Eight-liners would no longer be subject to the \$60 coin-operated amusement machine tax, and businesses whose only coin-operated amusement machines are eight-liners would no longer be required to pay the annual coin-operated business license fee. The proposed \$350 fee (30 percent of which goes to the state) would essentially offset the current tax and license fee revenue. The tax and license fee are deposited to General Revenue Fund.

The bill would amend Chapter 47 of the Penal Code to define eight-liner game machines; establish their legality; and set the maximum prize at \$1,500 in cash, or merchandise valued at \$1,500 wholesale, on a single play of a game. The bill also would define a bona fide amusement device which would not include an eight-liner, an electronic, electromechanical, or mechanical version of

bingo, keno, blackjack, lottery, roulette, video poker, or other similar game.

The bill would establish exceptions to offenses for the operation of eight-liners and bona fide amusement devices within an area that had legalized the operation of the machines, and would create state jail felonies for offenses related to the monetary prize limits of eight-liners and bona fide amusement devices as provided by the provisions of the bill.

The bill would repeal Section 47.02(e) of the Penal Code.

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of the bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

The Texas Lottery Commission indicated no fiscal impact to the commission is anticipated.

The Comptroller of Public Accounts (CPA) reported there would be a one-time administrative cost of \$1.2 million for technology programming, maintenance and security controls to implement the new tax.

The bill would take effect only if the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, authorizing local option elections legalizing or prohibiting the operation of eight-liners is approved by voters.

Local Government Impact

According to information provided by the Texas Municipal League (TML), there would be costs to a municipality to hold a local option election to legalize the operation of eight-liners if it was not held on the date of another election. In addition, a municipality that approved the operation of eight-liners would experience a revenue gain for the fees collected on the machines; however, the amounts would vary depending on the number of machines that would be located in a city.

The Texas Association of Counties (TAC) conducted a study in May 2007 and estimated that costs for a May special election for a constitutional amendment would cost counties about \$12.6 million statewide; however, this amount does not account for justice precinct elections which are also paid for by a county. There is currently no data on which to base an estimate of either the number of machines that would be licensed or how many of them would be located outside a municipality; so although the revenue generated could potentially cover the cost of elections to legalize the machines, if the majority of the eight-liners are located within a municipality, a county would not receive additional revenue even though the election included unincorporated areas of the county (county-wide or precinct-wide elections as opposed to a municipal election). Therefore, while the overall net fiscal impact to counties cannot be estimated, the provisions of the bill could potentially introduce significant on-going election costs without a guarantee that counties would receive sufficient revenue from eight-liner fees to offset the costs resulting in a significant negative fiscal impact to counties.

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

LBB Staff: UP, RB, SD, TP, LM