

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 20, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1385 by Raymond (Relating to local option elections to legalize or prohibit the operation of eight-liners; providing penalties; imposing fees.), **As Introduced**

There would be an indeterminate gain to the state as a result of the bill. Gains would 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 (\$650,000) administrative cost to the Comptroller of Public Accounts.

The bill would amend the Occupations, Penal, Election and Local Government 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 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 and an amusement redemption machine 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.

This analysis assumes the bill's provisions would not result in a significant impact on state correctional agencies.

The Comptroller of Public Accounts (CPA) reported there would be a one-time administrative cost of \$650,000 for technology programming.

The bill would take effect only if the constitutional amendment proposed by the 84th Legislature, Regular Session, 2015, 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 determine the legality of eight liners if it was not held on the date of another election. The costs of calling an election would vary from a few thousand dollars in smaller cities to \$500,000 in larger cities. 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 located in the city.

The Texas Association of Counties (TAC) conducted a study in early 2015 and estimated that costs for a statewide special election would cost counties an estimated \$13.7 million; however this amount does not account for justice precinct elections which would be paid for by the county under the provisions of the bill. There is no current data to base an estimate of either the number of machines that would be licensed or how many of the machines would be located outside a municipality; so although the revenue generated could potentially cover the costs of elections to legalize the machines, if the majority of the eight-lines are located within a municipality, a county would not receive additional revenue even though the election included incorporates 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, 307 Secretary of State, 362 Texas Lottery Commission, 405 Department of Public Safety

LBB Staff: UP, CL, SD, EK, AG, LM