

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 22, 2023

TO: Honorable Todd Hunter, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1942 by Leach (Relating to the regulation of sports wagering; requiring occupational permits; authorizing fees; imposing a tax; decriminalizing wagering on certain sports events; creating criminal offenses; providing administrative penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1942, As Introduced : a positive impact of \$175,657,954 through the biennium ending August 31, 2025.

The bill would authorize the Texas Lottery Commission to retain fees collected in an amount necessary to cover administrative costs. However, the commission will begin incurring administrative costs prior to being able to collect any application fee revenue associated with implementing the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	\$68,045,185
2025	\$107,612,769
2026	\$126,442,769
2027	\$142,182,769
2028	\$154,272,769

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Foundation School Fund 193	Probable Revenue Gain/(Loss) from New General Revenue Dedicated - Problem Gambling and Addiction Grant Fund Account
2024	(\$5,054,815)	\$11,300,000	\$61,800,000	\$1,300,000
2025	(\$3,627,231)	\$0	\$111,240,000	\$2,260,000
2026	(\$3,627,231)	\$0	\$130,070,000	\$2,630,000
2027	(\$3,627,231)	\$2,320,000	\$143,490,000	\$2,910,000
2028	(\$3,627,231)	\$0	\$157,900,000	\$3,200,000

<i>Fiscal Year</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	31.0
2025	31.0
2026	31.0
2027	31.0
2028	31.0

Fiscal Analysis

The bill would add Chapter 2005. Sports Wagering, to the Occupations Code, to be cited as the Texas Sports and Entertainment Recovery Act. The bill would require the Texas Lottery Commission (Commission) to regulate the state's sports wagering program, including issuing permits to interactive sports wagering operators. The bill would require the Commission to certify sports wagering revenues and expenses to the Comptroller of Public Accounts (Comptroller) on a monthly basis, and within thirty days of the end of the fiscal year provide to the Comptroller a full and complete statement of sports wagering revenues and expenses for that fiscal year. The bill would authorize the Commission and the Comptroller to audit the records of sports wagering operators. The bill would require the Commission to establish a statewide voluntary self-exclusion program and host a website that sport wagering operators may link to in order to allow individuals to register for self-exclusion. The bill would require the Commission to adopt rules governing the establishment of a sports wagering public accommodation at a sports facility or sports entertainment district. The bill would require the Commission to cooperate with investigations conducted by sports governing bodies or law enforcement agencies related to persons placing wagers.

The Commission may issue an interactive sports wagering permit for each authorized sports entity as defined by this chapter. The permitting fee would be set in statute at \$500,000. The Commission would be authorized to collect a service provider permit application fee of \$25,000. With limited exceptions, the interactive sports wagering permit and service provider permit expire after three years. The fee amount for renewing an interactive sports wagering permit would be \$100,000. The fee for renewing a service provider permit would be \$10,000.

The bill would require any fees collected by the Commission that exceed the costs of implementing this chapter to be remitted to the Comptroller.

The bill would impose a tax of ten percent on the sports wagering operator's adjusted gross revenue to be remitted to the Comptroller monthly.

The bill would create the Problem Gambling and Addiction Grant Fund Account as an account within General Revenue. Two percent of tax and fee revenue would be deposited to this account for the purpose of awarding grants to provide assistance for the direct treatment of persons diagnosed as suffering from pathological gambling and other addictive behaviors and for funding research regarding the impact of gambling on residents of this state.

The bill would require the remaining 98.0 percent of tax and fee revenue be deposited to the General Revenue Fund and dedication for appropriation to the Texas Education Agency for use in providing property tax relief through the reduction of the state compression percentage, as defined by Section 48.255 of Education Code. This analysis assumes that these funds would be deposited into Account 0193 - Foundation School Fund.

Under the provisions of the bill, a sports wagering operator may not be subject to an excise tax, license tax, privilege tax, amusement tax, sales tax, or occupation tax that is imposed upon licensees by the state or any political subdivision of the state, except as provided by the bill.

The bill would create three new criminal offenses and a civil penalty related to sports wagering. The bill would amend the Penal Code as it relates to gambling to expand the definition of bet and would make other conforming changes to the Penal Code.

The bill would take effect January 1, 2024, contingent on voter approval of an associated constitutional amendment (HJR 102).

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, 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.

Methodology

In May of 2018 the United States Supreme Court struck down a federal ban on sports betting. Prior to this action, only Nevada allowed sports betting. The bill would allow the Commission to establish a sports betting program.

The bill would require a \$500,000 fee to apply for a permit for sports betting and a \$100,000 fee to renew a permit for sports betting. The bill would require that the sports betting operators are affiliated with a racetrack, an organization that sanctions annual professional gold tournaments as part of a major tour, or major professional sports franchises in this state, as defined by the bill. The permits would be renewed three years after the permit is issued. The Comptroller's office assumes the Commission will receive five application fees in the first year and five renewal fees in the third year.

The Comptroller's estimate of the revenue to Account 0193 - Foundations School Fund and the new account Problem Gambling and Addiction Grant Fund Account uses a 10.0 percent tax rate on the adjusted gross wagering revenue.

It is assumed that the \$500,000 application fee and the \$100,000 renewal fee after three years for the interactive sports wagering permit and the \$25,000 application fee and \$10,000 renewal fee after three years for the service provider permit would go to the General Revenue Fund for use by the Commission to cover costs associated with administering the program, prior to any revenue above what is needed to cover costs being remitted to the Comptroller's office for deposit into Account 0193 - Foundations School Fund and the new account Problem Gambling and Addiction Grant Fund Account. The Commission anticipates 22 interactive sports wagering permit applications and renewals and 12 service provider permits and renewals. Estimated revenue from these permit fees is \$11.3 million in fiscal year 2024 and \$2.3 million in fiscal year 2027 and every subsequent three years.

This Comptroller's office estimates that implementing the provisions of the bill would result in \$173.0 million in the 2024-25 biennium for use in providing property tax relief through the reduction of the state compression percentage (SCP), as defined by Section 48.255 of Education Code. The Legislature could either use these funds to support ongoing compression or could use these funds to further reduce the SCP beyond current law. If the Legislature chose to appropriate the \$173.0 million available in the 2024-25 biennium to reduce the SCP beyond current law, the SCP would be reduced by 0.026 percent in fiscal year 2026 and the additional compression and associated state cost would be ongoing.

The Commission anticipates needing to hire 29.0 FTEs to implement the provisions of the bill. This analysis assumes administrative costs of \$3.9 million in fiscal year 2024 and \$3.5 million in each subsequent year. Administrative costs include staffing costs of \$2.1 million in fiscal year 2024 for the eight months of the fiscal year in which the program would be operating, and \$3.3 million in fiscal year 2025 and each subsequent year. This analysis assumes \$1.8 million for other administrative costs in fiscal year 2024 and decreasing to \$196,667 in subsequent years. Other administrative costs include professional services, travel, equipment, and rent. The Commission anticipates technology costs of \$700,000 in fiscal year 2024 relating to contracting with programmers for technology upgrades.

The Comptroller's office assumes one-time technology costs of \$1.0 million in fiscal year 2024 related to programming for updated tax systems required by the bill. The Comptroller's office anticipates needing to hire 2.0 account examiners. This analysis assumes staffing costs of \$89,095 for eight months of fiscal year 2024 and \$141,645 in each subsequent year.

The bill would create three new Class A misdemeanor offenses related to sports betting. Under Sec. 12.21 of

the Penal Code, a Class A misdemeanor offense is punishable by a fine not to exceed \$4,000. Under Sec. 133.102 of the Local Government Code, a court cost of \$147 is imposed on the conviction of a Class A misdemeanor. There are other court costs or fees that may be assessed. Although creating a new offense could potentially result in an increase in revenue due to fines, costs, or fees associated with an offense, this increase cannot be estimated.

Creating a new criminal offense may result in an increase in demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement. The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to a lack of data to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

Technology

Included in the administrative costs above are \$1.0 million for the Comptroller's office and \$0.7 million for the Commission in fiscal year 2024 for costs relating to contracting with programmers for IT system upgrades necessary to implement the provisions of the bill.

Local Government Impact

While the fiscal impact to units of local government associated with creating new criminal offenses cannot be determined, it may result in additional demands upon local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 362 Texas Lottery Commission, 476 Racing Commission, 701 Texas Education Agency

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