

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 10, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2843 by Kuempel (relating to the authorization, licensing, and regulation of casino gaming and sports wagering in this state, to the creation, powers, and duties of the Texas Gaming Commission, to the support of the horse racing industry and reform of horse racing and greyhound racing, and to other provisions related to gambling; imposing and authorizing administrative and civil penalties; imposing taxes; imposing and authorizing fees; requiring occupational licenses; creating criminal offenses.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2843, Committee Report 1st House, Substituted : a positive impact of \$251,459,260 through the biennium ending August 31, 2025, if voters approve a constitutional amendment renaming the national research university fund the Texas University Fund; or a positive impact of \$596,319,260 through the biennium ending August 31, 2025, if voters do not approve a constitutional amendment renaming the national research university fund the Texas University Fund.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The tables below show the fiscal implications to the state if voters approve a constitutional amendment renaming the national research university fund the Texas University Fund.

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 Texas Racing Comm Acct 597	Probable Revenue Gain/(Loss) from New General Revenue Dedicated - Problem Gambling and Addiction Grant Account
2024	(\$89,095)	\$63,060,000	(\$540,000)	\$0
2025	(\$141,645)	\$188,630,000	(\$540,000)	\$2,160,000
2026	(\$141,645)	\$257,740,000	(\$540,000)	\$4,310,000
2027	(\$141,645)	\$373,880,000	(\$540,000)	\$6,530,000
2028	(\$141,645)	\$443,180,000	(\$540,000)	\$6,860,000

<i>Fiscal Year</i>	Probable Savings/(Cost) from New Other - Texas Casino Gaming Fund	Probable Revenue Gain/(Loss) from New Other - Texas Casino Gaming Fund	Probable Revenue Gain/(Loss) from Horse Industry Escrow Trust Account	Probable Revenue Gain/(Loss) from Texas University Fund 214
2024	(\$28,812,119)	\$12,000,000	\$0	\$0
2025	(\$44,566,339)	\$12,930,000	\$8,620,000	\$344,860,000
2026	(\$44,566,339)	\$25,860,000	\$17,240,000	\$689,720,000
2027	(\$44,566,339)	\$39,190,000	\$26,130,000	\$1,000,000,000
2028	(\$44,566,339)	\$41,160,000	\$27,440,000	\$1,000,000,000

<i>Fiscal Year</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	323.5
2025	323.5
2026	323.5
2027	323.5
2028	323.5

The tables below show the fiscal implications to the state if voters do not approve a constitutional amendment renaming the national research university fund the Texas University Fund.

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Probable Revenue Gain/(Loss) from General Revenue Fund 1</i>	<i>Probable Revenue Gain/(Loss) from Texas Racing Comm Acct 597</i>	<i>Probable Revenue Gain/(Loss) from New General Revenue Dedicated - Problem Gambling and Addiction Grant Account</i>
2024	(\$89,095)	\$63,060,000	(\$540,000)	\$0
2025	(\$141,645)	\$533,490,000	(\$540,000)	\$2,160,000
2026	(\$141,645)	\$947,460,000	(\$540,000)	\$4,310,000
2027	(\$141,645)	\$1,373,880,000	(\$540,000)	\$6,530,000
2028	(\$141,645)	\$1,443,180,000	(\$540,000)	\$6,860,000

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from New Other - Texas Casino Gaming Fund</i>	<i>Probable Revenue Gain/(Loss) from New Other - Texas Casino Gaming Fund</i>	<i>Probable Revenue Gain/(Loss) from Horse Industry Escrow Trust Account</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$28,812,119)	\$12,000,000	\$0	323.5
2025	(\$44,566,339)	\$12,930,000	\$8,620,000	323.5
2026	(\$44,566,339)	\$25,860,000	\$17,240,000	323.5
2027	(\$44,566,339)	\$39,190,000	\$26,130,000	323.5
2028	(\$44,566,339)	\$41,160,000	\$27,440,000	323.5

Fiscal Analysis

Contingent upon the passage of a constitutional amendment, the bill would legalize casino gambling and sports betting. The bill would create the Texas Gaming Commission to license and regulate casinos, casino operators, casino employees, slot machine manufacturers, and casino service providers. The bill would require that the members of the Commission are appointed not later than February 1, 2024. The bill would also authorize gaming agreements between Texas and federally recognized Indian tribes for the operation of casinos on Indian land. Under the bill licensees, applicants for licenses, and casinos would have due process rights to administrative hearings to challenge license denials, suspensions, fines, other disciplinary actions, and determinations of tax deficiency. Final orders from administrative hearings would be subject to judicial review before the Travis County district court in accordance with the Administrative Procedure Act. The bill would authorize the Commission to conduct a criminal background check of any person directly involved with casino gaming, sports wagering, or any other gambling regulated by the Commission.

The bill would authorize a racetrack association that hosts greyhound operations to receive and hold a casino license if the association agrees to immediately cease all greyhound racing operations. The bill would require that each operator hold an operator license and each person employed as a gaming employee hold an occupational license.

The bill would require an application fee of the following amounts: \$2.5 million for a license for a casino

located within a destination resort that requires a minimum investment commitment of at least \$2.0 billion; \$1.25 million for a license for a casino located with a destination resort that requires a minimum investments commitment of at least \$1.0 billion; \$500,000 for a license for a casino located within a destination resort that requires an investment commitment of at least \$250.0 million; an applicant for a manufacturer license must pay \$1,000; an applicant for an operator license must pay \$1,000; an applicant for a casino service license must pay an application fee of \$200; a person registering and applying to qualify an equity interest in a license holder must pay an application fee of \$200; and an individual applying for an occupational license must pay an application fee of \$100. The license for a casino expires on the 50th anniversary of its issuance. The other licenses listed must be renewed annually.

The bill would create the Texas Casino Gaming Fund as a special fund in the state treasury. The fund would consist of all application fees and investigation fees collected by the Commission or on the Commission's behalf. The fund may only be used for the administration of the Commission and the administration of the provisions of Chapter 2202.

The bill would create the Casino Gaming Tax and the Sports Wagering Tax. The Casino Gaming Tax would be imposed on each casino license holder in an amount equal to 15.0 percent of the gross casino gaming revenue of the casino operated under the license. The Sports Wagering Tax would be imposed on each license holder in an amount equal to 10.0 percent of the gross sports wagering revenue of the license holder.

The revenue from these taxes would be allocated to the General Revenue Fund, except as follows and pertaining only to the casino gaming tax: 2.0 percent to Fund 0876 - Horse Industry Escrow Trust Account; 3.0 percent to the Texas Casino Gaming Fund; 0.5 percent to the General Revenue Fund and dedicated to the compulsive gambling program as created by this bill; \$1.0 million could be appropriated to the Department of Public Safety biennially to provide grants to prosecuting attorneys; and 10.0 percent of the revenue could be appropriated only to fund public safety programs.

Finally, 80.0 percent of the casino gaming tax could be appropriated only to fund education. Provided that a constitutional amendment were passed renaming the national research university fund as the Texas University Fund (Fund), the lesser of \$1.0 billion or 80.0 percent of the revenue generated by the casino gaming tax would be allocated to the Fund. Any remaining collections would be deposited to the General Revenue Fund.

The bill would create new criminal offenses.

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 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

The bill would impose a casino gaming tax in the amount of 15.0 percent of the gross gaming revenue of the casino from all gambling games and a 10.0 percent sports wagering tax of the gross revenue from sports wagering. Under the provisions of the bill, revenue from the casino gaming tax and sports wagering tax would be deposited to the General Revenue Fund - 0001 with certain exceptions in the case of the casino gaming tax.

Two percent would be allocated to Fund 0876 – Horse Industry Escrow Trust Account to be used as horse racing purses in the state; 3.0 percent would be allocated to the Texas Casino Gaming Fund for administration costs for the Commission; and 0.5 percent would be allocated to the new problem gambling and addiction grant account in the general revenue fund. In addition, and of funds deposited to General Revenue, one million could be appropriated each biennium to the Department of Public safety for grants; and 10.0 percent could be appropriated only to fund public safety programs. Finally, 80.0 percent of casino gaming tax revenue could be appropriated only to fund education. In the event a constitutional amendment were to be approved by the voters regarding the renaming the national research university fund as the Texas University Fund is approved, the Texas University Fund would receive the lesser of \$1.0 billion or 80.0 percent of annual casino gaming tax revenues.

This analysis assumes that the Commission is organized similarly to, and has similar administrative costs to the Texas Lottery Commission. This analysis assumes the Commission is in operation for 8.0 months in fiscal year

2024. This analysis assumes administrative costs of \$28.8 million in fiscal year 2024 and \$44.6 million per year beginning in fiscal year 2025. This includes staffing costs for 321.5 FTEs of \$22.0 million in fiscal year 2024, and \$34.5 million per year beginning in fiscal year 2025. Other administrative costs include rent, supplies, utilities, travel and professional services.

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 Racing Commission estimates that three greyhound racetrack license holders would surrender their license in favor of a casino gaming license. This would result in a revenue loss to Account 0597 - Racing Commission of \$540,000 per year beginning in fiscal year 2024.

The State Office of Administrative Hearings (SOAH) anticipates additional costs as a result of implementing the provisions of the bill providing for administrative hearings. SOAH assumes that these costs would be from the Commission through interagency contracts. Any costs associated with administrative hearings are included in the administrative costs described above.

Costs associated with implementing the provisions of the bill authorizing the Commission to conduct a criminal background check of any person directly involved with casino gaming, sports wagering, or any other gambling regulated by the Commission would be dependent on the number of background checks the Commission chooses to request and the fee charged to the Commission for the check. This impact cannot be determined at this time but could be significant. For context, the Department of Public Safety estimates a cost of \$28.25 to perform each fingerprint-based criminal background check.

Creating multiple new criminal offenses may result in additional 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.

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: 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 476 Racing Commission, 720 The University of Texas System Administration, 781 Higher Education Coordinating Board

LBB Staff: JMc, SMAT, SD, BRI