

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 260
 Ways and Means

(Delegates Impallaria and McDonough)

Maryland Gaming Commission Act of 2007

This bill establishes a Maryland Gaming Commission as an independent unit of State government to regulate for-profit and charitable gaming in the State. The State Lottery Commission is eliminated and the State Lottery Agency is transferred to be a division within the Maryland Gaming Commission. The bill also creates a Joint Committee on the Oversight of Gaming Activities and a Division of Gaming Enforcement within the Office of the Attorney General. The bill preempts local laws regulating gaming to the extent that they are inconsistent with the bill.

The bill is effective July 1, 2007.

Fiscal Summary

State Effect: Special fund expenditures would increase by \$1.2 million beginning in FY 2008 for personnel and start-up costs at the commission. General fund expenditures increase by approximately \$1.8 million beginning in FY 2008 due to additional personnel at the Office of Legislative Audits and Office of the Attorney General. Special fund revenues would increase in FY 2008 and thereafter due to the imposition of licensee fees and penalties. The amount of this revenue increase cannot be reliably estimated at this time but is assumed to cover the agency's costs.

(\$ in millions)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
SF Revenue	\$1.2	\$1.2	\$1.3	\$1.4	\$1.4
GF Expenditure	1.8	1.8	1.9	2.0	2.1
SF Expenditure	1.2	1.2	1.3	1.4	1.4
Net Effect	(\$1.8)	(\$1.8)	(\$1.9)	(\$2.0)	(\$2.1)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local revenues could decline significantly due to the loss in licensing fees if local governments no longer receive gambling license and fee revenues.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The major provisions of the bill are as follows:

The bill creates the Maryland Gaming Commission as an independent State commission. The commission is composed of 13 members: four appointed by the Governor, four appointed by the President of the Senate of Maryland, four appointed by the Speaker of the House of Delegates, and the executive director of the commission. The executive director is appointed by the rest of the commission, and votes only in the case of a tie. The political composition of the commission must reflect the political affiliation of registered voters in the State. The members must meet certain requirements and are subject to investigation by the Attorney General.

The purpose of the commission is to regulate most gaming activities in the State. These gaming activities include: bingo, card games, chance books, dice games, punchboards, wheels of chance, raffles, roulette, slot machines, tip jars, lotteries, certain pinball and free-play console machines, certain amusement devices, and certain gaming aboard a passenger cruise vessel. The commission is given authority over gaming activities currently authorized by Titles 12 and 13 of the Criminal Law Article. Horse racing and the Maryland Stadium Authority are not included in the authority of the Gaming Commission.

A person who conducts any activity described in the previous paragraph must obtain a license to conduct any gaming activity, operate as a gaming establishment, or as a vendor who sells or otherwise distributes gaming equipment.

The commission is authorized to: (1) issue licenses; (2) determine the eligibility of licenses; (3) enforce State gaming laws; (4) ensure the bona fide nature of charitable and nonprofit organizations; (5) verify that proceeds are distributed to charity if required by law; (6) review ongoing and proposed gaming activities; (7) regularly review and recommend changes to State, county, or municipal gaming laws; and (8) establish and assess fees to cover the indirect and direct costs of the commission.

The commission must adopt regulations that require all licensees to: (1) maintain financial and other records; (2) inform the commission of the precise location of these

documents; (3) identify any person involved in the management operations of a gaming activity or establishment; (4) identify all payments made by licensees related to gaming activities; (5) record and report all gaming-related income and expenses; and (6) display licenses conspicuously.

The commission has the authority to issue subpoenas, inspect and audit the documents of a licensee or any person financing a gaming activity, inspect and calibrate equipment, require a licensee to develop and maintain a list of persons to be excluded or ejected from an establishment, require that any person involved in gaming has not been convicted of a felony or crime involving moral turpitude, and establish standards for any employee or agent that participates in the management of a gaming activity. The commission has the authority to revoke, suspend, deny a license, or issue a cease and desist order if a licensee violates any provision of the bill or regulation established by the bill. Licenses are for a two-year period and are not transferable.

The commission may request that the Secretary of State Police assign law enforcement officers to the commission. The commission is funded through a newly established Maryland Gaming Commission Fund. This fund is composed of the fees imposed by the commission and is subject to the State appropriations process. Any remaining balance in the fund is to be used to support capital projects and develop sectors of the State economy such as the horse racing industry.

The bill states that any individuals affected by the provisions of this bill and who are currently authorized to conduct gaming do not require licensing until July 1, 2008.

The bill creates a Joint Committee on the Oversight of Gaming Activities in the State. Composed of five senators and five delegates, the committee is to monitor the commission, review gaming laws, and recommend changes to gaming laws.

The bill also establishes a Division of Gaming Enforcement within the Attorney General's Office under the leadership of an assistant Attorney General. The division is to provide staff and act as the legal counsel to the commission. The division is authorized to investigate any applicant, investigate and prosecute violations of any gaming law, and conduct continuing reviews of gaming activities through on-site observation and other means. The division is authorized to inspect and audit the documents of a licensee and administer oaths and subpoenas. An employee or agent of the division may examine the premises where gaming activity is conducted or where gaming equipment is manufactured or otherwise distributed, and seize and impound gaming equipment and documents where gaming is conducted. The expenses incurred in an examination or audit of any applicant or licensee are to be paid by the licensee or applicant within 30 days.

The bill establishes that each violation of a provision of the bill is a misdemeanor offense punishable by a maximum fine of \$25,000 or one-year jail sentence.

Current Law: Specified types of gambling are allowed in Maryland. This includes the State lottery and wagering on horse racing. Bingo, bazaars, and gaming nights are allowed for some nonprofit organizations on a county-by-county basis. Several counties permit for-profit bingo. In addition, some nonprofit organizations in Eastern Shore counties are allowed to operate up to five slot machines, provided that at least 50% of the proceeds go to charity. Video lottery terminals are not authorized for operation in the State. For additional discussion of gambling in Maryland, please consult the *Legislators' Guide to Video Lottery Terminal Gambling*.

State Revenues: Special fund revenues would increase significantly as a result of the licensing and penalty provisions of the bill. The extent of the increase depends on the number of different games regulated, number of licenses issued and fee amounts, and number of investigations conducted and penalties assessed. The total amount cannot be reliably estimated. It is assumed that license fees would be set at a level sufficient to cover the administrative costs as provided under the bill. To the extent that this is not done, revenues will be less.

State Expenditures: Special fund expenditures could increase by approximately \$1.2 million in fiscal 2008 as a result of compensating 22 employees at the proposed Maryland Gaming Commission. This includes 1 executive director, 1 assistant executive director, 4 support staff, 12 investigators, 3 supervisors, and 1 attorney.

It is assumed that Gaming Commission members are compensated at the same level as existing Lottery Commission members (up to \$1,500 annually for members and up to \$2,500 annually for chairmen). Therefore, there would be an additional cost for 7 additional members (13 total including the executive director).

The Office of the Attorney General (OAG) did not respond to repeated requests for information on this bill. Information provided for similar legislation proposed in 2004 was used by the Department of Legislative Services to estimate the fiscal impact on OAG.

OAG would incur increased general fund expenditures of approximately \$1.5 million in fiscal 2008 as a result of hiring 24 additional employees. This includes 9 Assistant Attorneys General, 4 legal secretaries, 10 fraud investigators, and 1 management associate.

The Office of Legislative Audits would incur increased general fund expenditures of approximately \$258,000 in fiscal 2008 as a result of hiring a senior staff auditor and two staff auditors. Legislative Services can handle the legislative responsibilities of the bill within existed budgeted resources.

Future year expenditures reflect: (1) a full salary with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Local Fiscal Effect: Local revenues could decline significantly to the extent that the bill preempts local gaming regulations and associated license and fee revenues. For example, Washington County expects that this bill would reduce county revenues from tip-jar gaming by \$3.7 million in fiscal 2008.

Small Business Effect: Small businesses that operate gaming activities in the State could be harmed by the fees and regulatory requirements imposed by the bill.

Additional Information

Prior Introductions: HB 921 of 2004, a similar bill, received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): Anne Arundel County; Washington County; Maryland State Lottery Agency; Department of Labor, Licensing, and Regulation; Office of the Attorney General; Department of Legislative Services (Office of Legislative Audits)

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