

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

House Bill 565 (Allegany County Delegation)  
Ways and Means

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**Gaming - Video Lottery Terminals**

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This emergency bill makes a variety of changes related to the video lottery operation license for a video lottery facility in Allegany County. The bill prohibits the award of a video lottery operation license to an applicant for the Allegany County license unless the applicant agrees to purchase the Rocky Gap Lodge and Resort (the lodge), and requires that the purchase price for the lodge be counted toward the applicant's direct investment requirement. The bill also waives the initial license fee for up to 500 video lottery terminals (VLTs) for the Allegany County operation license and repeals the requirement that the permanent location of VLTs be in a separate structure from the lodge. If VLTs are permanently located in the lodge and meeting space in the lodge is displaced, within three years after issuance of the license, the licensee must provide for meeting space that is accessible from the lodge. The licensee must restrict public access to the video lottery facility from any replacement meeting space.

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**Fiscal Summary**

**State Effect:** Special fund revenues to the Education Trust Fund (ETF) and the State Lottery Agency from the VLT program increase to the extent the bill expedites the opening and operations of a video lottery facility in Allegany County. Up to \$3 million in special fund (ETF) revenues are foregone from waiving the initial license fee; to the extent that the award of the license is expedited, and more than 500 VLTs are awarded for the Allegany County location, special fund revenues will be available sooner. The fiscal year impacts of the bill depend upon the date a video lottery operation license is awarded and the date that VLT operations begin in Allegany County.

**Local Effect:** To the extent the bill expedites the opening and operations of a video lottery facility in Allegany County, local impact grants from VLT revenues increase in the county.

**Small Business Effect:** Minimal.

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## **Analysis**

**Current Law/Background:** During the 2007 special session, the General Assembly adopted two pieces of legislation pertaining to VLT gambling – Chapter 4 (Senate Bill 3) and Chapter 5 (House Bill 4). Chapter 5 was a constitutional amendment approved by the voters at the November 2008 general election that authorized the expansion of gambling subject to specified restrictions. The constitutional amendment provided that (1) a maximum of five VLT facility licenses may be awarded within specified areas of the State; (2) no more than one facility license may be awarded in any county or Baltimore City; (3) a maximum of 15,000 VLTs may be authorized; and (4) VLT facilities must comply with any applicable planning and zoning laws of a local jurisdiction. Chapter 4, which was contingent on ratification of Chapter 5, established the operational and regulatory framework for the VLT program. A proposal for a VLT facility must provide for \$25 million in direct investment for construction and related costs for every 500 VLTs proposed, prorated for the exact number of VLTs in the application. Under Chapter 4, gross VLT proceeds are distributed as follows from the proceeds of VLTs at each facility:

- Business Investment – 1.5% to a small, minority, and woman-owned business investment account;
- Lottery – 2% to the State lottery for administrative costs, with other costs provided for in the State budget;
- Local Impact Grants – 5.5% to local governments in which a video lottery facility is operating, 18% of which would go for 15 years (starting in fiscal 2012 and ending in fiscal 2027) to Baltimore City through the Pimlico Community Development Authority and to Prince George’s County for the community surrounding Rosecroft (\$1 million annually);
- Purse Dedication Account – 7% to a purse dedication account to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually;
- Racetrack Facility Renewal Account – 2.5% for an eight-year period for racetrack capital construction and improvements, not to exceed \$40 million annually;
- Licensee (Operator) – no more than 33% to video lottery operation licensees; and
- Education Trust Fund (ETF) – remainder to Education Trust Fund (48.5%-51.0%).

Video lottery operation licenses are awarded by the Video Lottery Facility Location Commission (Location Commission). The State Lottery Commission oversees VLT operations and owns/leases VLTs and a central monitor and control system. The maximum of 15,000 VLTs are distributed as follows under the statute: 4,750 VLTs in Anne Arundel County; 3,750 VLTs in Baltimore City; 2,500 VLTs in Worcester County; 2,500 VLTs in Cecil County; and 1,500 VLTs in Allegany County (Rocky Gap State Park).

The Location Commission has awarded video lottery operation licenses for VLT facility locations in Anne Arundel, Cecil, and Worcester counties. The Cecil County VLT facility opened on September 27, 2010, with 1,500 VLTs and the Worcester County VLT facility opened on January 4, 2011, with 750 VLTs (increasing to 800 VLTs in the near future). Power Plant Entertainment Casino Resorts, LLC plans to open a temporary facility with 2,000 VLTs adjacent to Arundel Mills Mall in Anne Arundel County in the fourth quarter of 2011, with a permanent facility with 4,750 VLTs scheduled to open in the fourth quarter of 2012. The licenses for Baltimore City and Allegany County have yet to be awarded.

#### *Allegany County VLT Facility*

In February 2009, the Location Commission rejected the single proposal for Allegany County for failing to meet the minimum requirements of the VLT law and the request for proposals (RFP), including failure to pay the required initial license fee. Chapter 624 of 2010 altered several provisions regarding the Allegany County VLT facility location. Under Chapter 624, contingent upon the purchase of the Rocky Gap Lodge and Golf Resort by the licensee, 2.5% of VLT proceeds from the Allegany County facility for the first five years of operations that would otherwise be distributed to the Racetrack Facility Renewal Account, would instead be distributed to the Allegany County facility licensee.

Pursuant to Chapter 624 of 2010, the VLT facility in Allegany County must be in the Rocky Gap State Park in a building that is separate from the lodge, but the facility may be adjacent or connected to the lodge. In addition, VLTs can be operated temporarily in the lodge for up to 30 months. Under current law, an individual or business entity may not own an interest, regardless of the percentage of ownership, in more than one video lottery facility. Chapter 624 provided that an individual or business entity who holds an interest in a VLT facility in the State could also enter into an operator management agreement for the Allegany County VLT facility only.

The Location Commission issued a new RFP for the Allegany County location in July 2010, but no proposals were received by the November 2010 deadline. In a January 2011 letter to the Governor, President of the Senate, Speaker of the House, Chair of the

Senate Budget and Taxation Committee, and Chair of the House Ways and Means Committee, the Location Commission made several recommendations for the General Assembly to consider for the Allegany County location. This bill largely reflects the recommendations of the Location Commission.

### *Rocky Gap Lodge and Golf Resort*

The Rocky Gap Lodge and Golf Resort opened in 1998 and consists of a 220-room lakeside lodge and conference center and an 18-hole golf course situated on about 260 acres within Rocky Gap State Park. The State and Allegany County jointly entered into the Rocky Gap project, with the State providing \$10.9 million and the county providing \$4.5 million for construction of the project. In total, the State has provided over \$16.0 million and Allegany County expenses total approximately \$8.0 million.

In addition, approximately \$6.1 million in unpaid accrued ground rent is owed to the Department of Natural Resources and \$3.0 million in service fees is owed to Maryland Economic Development Corporation (MEDCO). Chapter 245 of 2009 allows Allegany County to use local impact grants from the Rocky Gap VLT facility for, among other things, paying down the debt incurred by the county in the construction and related costs for the golf course, lodge, and other improvements in Rocky Gap State Park.

From its inception the Rocky Gap project has experienced operating difficulties that resulted in its inability to meet required debt service payments. Rocky Gap experienced net operating losses of \$3.8 million in fiscal 2010 and the project has an accumulated deficit of \$48.0 million as of the end of fiscal 2010. MEDCO, which issued nonrecourse bonds to finance the project, reports that Rocky Gap is now able to fund its operations from its own revenue stream due to debt restructuring in 2008 and other MEDCO initiatives. However, the facility does not generate enough revenue to cover debt payments to investors.

**State Fiscal Effect:** Waiving up to \$3 million in initial license fees, allowing for VLTs in the lodge permanently, and counting the purchase price for the lodge toward the applicant's direct investment obligation may result in more viable proposals in response to a future RFP for the Allegany County VLT location than would be the case under current law. While up to \$3 million in initial license fees will not be realized, to the extent that the award of the license is expedited by the bill, and more than 500 VLTs are awarded for the Allegany County location, these revenues are available sooner. VLT revenues distributed to the Education Trust Fund and to the State Lottery Agency for administration of the VLT program will also increase to the extent the bill expedites the opening and operations of a video lottery facility in Allegany County.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 512 (Senators Edwards and Miller) - Budget and Taxation.

**Information Source(s):** Allegany County, Comptroller's Office, Maryland State Lottery Agency, Department of Legislative Services

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