

HB 1089

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1089 (Delegate Cardin)
Ways and Means

Gaming and Video Lottery Terminals - State Lottery Commission - Licensing, Revenues, and Operations

This bill authorizes a maximum of 12,000 video lottery terminals (VLTs) in the State. A VLT facility may not operate more than 3,000 VLTs and is authorized to operate table games. Licenses are to be competitively awarded based on the estimated net revenue that would be generated to the State. Five percent of VLT gross proceeds are to be distributed to a Community Impact Fund established by the bill. VLT proceeds after administrative costs are to be distributed to the Maryland-bred race fund, not to exceed \$25 million annually, with the remaining funds distributed to the general fund. Licensees are to be compensated by the sale of bond anticipation notes and/or according to money appropriated in the State budget. The Governor is to negotiate a revenue sharing agreement with any neighboring state with VLTs.

Fiscal Summary

State Effect: Potential significant general fund revenues due to application fees. General fund revenues would increase by the fee set by the State Lottery Commission in the year in which a license is awarded. General fund revenues would increase significantly due to VLT and table game revenues, somewhat offset by a decrease in lottery sales. Significant general fund revenue increase if revenue sharing agreements are made. Special fund revenues and expenditures would increase for lottery agency administrative expenses, community aid, bred fund, gambling and addiction treatment expenditures. Special fund expenditures increase due to payments to licensees and bond interest repayments.

Local Effect: Communities near VLT facilities could benefit from revenues dedicated to the Community Impact Fund. To the extent that these revenues do not cover expenses

incurred by local jurisdictions as a result of VLT facilities, expenditures in these jurisdictions could increase significantly due to increased public services and infrastructure costs.

Small Business Effect: Meaningful.

Analysis

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

Video Lottery Terminals and Locations

The bill authorizes a total of 12,000 VLTs in the State. VLT licenses are to be competitively awarded based on the estimated net revenue that would be generated to the State. In order to qualify for a license, a cost-benefit analysis (CBA) according to standards adopted by the State Lottery Commission must conclude that the VLT facility will generate at least \$100 million in net revenue to the State. The bill does not specify the time period in which this revenue must be generated. A licensee must pay a license fee that is established by the commission.

Revenue Sharing Agreement

The bill requires the Governor to negotiate with any neighboring state that authorizes VLT gambling. The agreement is to be based on the number of Marylanders that patronize the VLT facility in the neighboring state. If an agreement is reached, the money received by the State from the neighboring state would be deposited in the general fund. VLT facilities may not be located near the border of any state with which a revenue sharing agreement has been entered.

Distribution of VLT Proceeds

From the gross proceeds of VLTs, after payout to players, 5% of proceeds are distributed to the Community Impact Fund. After this distribution, the State Lottery Agency is to be paid for VLT administrative costs. The bill does not specify an exact amount for lottery administrative expenses.

From these net proceeds, after distributions to the State Lottery Agency and Community Impact Fund, the proceeds are distributed as follows:

- 5% to the Compulsive Gambling Treatment Fund established by the bill;

- \$25 million to the Maryland-bred Race Fund; and
- the remainder to the general fund.

Licensees do not receive a percentage of actual VLT revenues; instead, they receive, upon the issuance of their licenses, specified proceeds of Bond Anticipation Notes issued by the State Lottery Commission. A licensee will receive an amount based on the estimated net revenue the VLT facility will generate, as follows:

- In the first year of operations, \$40 million for each \$100 million the facility is estimated to generate in net revenues.
- In the second year of operations and thereafter, the amount the licensee receives for every \$100 million in estimated revenue is (1) \$30 million in the second year; (2) \$20 million in the third year; and (3) \$10 million in the fourth year and thereafter.

In addition to the amount previously specified, a VLT facility that is located within 15 miles of a neighboring state (where a revenue sharing agreement is not in effect) will receive an additional \$15 million per \$100 million in estimated net revenues.

Community Impact Fund

Each of the communities in the surrounding area from a VLT facility would have a Community Impact Fund. In order to spend money from the fund, a community coalition must be formed. This coalition is composed of a nonprofit organization and an employee of the VLT facility that acts as a liaison between the facility and the community. The fund is to be administered by the nonprofit organization located in the community. The funds are to be distributed according to what the coalition believes the community needs in order to maintain the facility in the surrounding area.

Destination Site Development Fund

This fund is administered by the State Lottery Commission. The fund is composed of the proceeds from the sale of Bond Anticipation Notes issued by the commission, and any money that is appropriated in the State budget to the fund. Money in the fund is to be distributed to licensees in accordance with the State budget.

Compulsive Gambling Fund

The bill creates a Compulsive Gambling Treatment Fund administered by the Department of Health and Mental Hygiene (DHMH). The funds are to be distributed to pay for the

services offered by the Compulsive Gambling Center of Baltimore City and other organizations dedicated to the treatment, education, training, research, and expert testimony on compulsive gambling.

Lottery Commission Authority and Duties

VLTs will be owned or leased by the State Lottery Commission and under the control of the commission at all times.

The commission has authority to issue subpoenas and conduct investigations and hearings, inspect all premises where VLTs are operated or manufactured, seize VLTs, inspect, audit, and seize documents at VLT facility premises, and establish an annual fee to be paid by each facility licensee.

The commission is required to contract with a private management company to perform the duties at any facility that has gaming authorized by the bill: (1) provide on-site management at each facility; (2) verify the number of VLTs at each facility and report any unauthorized VLTs to the commission; and (3) collect all fees and gaming proceeds and transfer these proceeds to the commission.

Video Lottery Terminal Licenses

Licenses must be obtained by VLT operators, VLT manufacturers, VLT employees, and other specified individuals. In addition, the commission may require others to be licensed.

All applicants for VLT-related licenses are subject to investigation procedures adopted by the commission. All applicants for VLT-related licenses must establish their qualifications including: financial stability of the applicant and all individuals and business entities associated with the applicant; integrity of financial backers and investors; good character and honesty, suitability of the facility and location; and sufficient business ability and experience.

A VLT facility must show that the facility contract ownership is owned by at least: (1) 25% minority business enterprises; and (2) 80% Maryland-based companies. The VLT facility must employ at least 51% unionized labor during the construction of the facility. If a facility fails to meet these requirements, it will be penalized based on regulations adopted by the commission.

A VLT operation license applicant must provide information that includes: the financial structure of the entity and names, personal history, and criminal history of all officers,

partners, and principal employees; the names of all holding companies, subsidiaries, or other business entities of the applicant; and the names of all persons who own or control the business entity as well as a description of all bonus and profit-sharing agreements.

A VLT-related license will be denied on the basis of specified criteria, including: failure to provide proof that the applicant meets the qualifications required in the bill; conviction or current prosecution of the applicant or any person required to be qualified under the act of a criminal offense involving moral turpitude or gambling; and identification of the applicant or a person required to be qualified under the bill as a career offender or a member of a career offender cartel as defined in the bill.

The term of a VLT operation license is five years. At the end of the five-year term, the license is renewable annually. The bill provides that the part of the license fees paid by the applicant and specified capital improvements at the VLT facility are to be reimbursed if the license is revoked or surrendered.

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. VLTs are not authorized for operation in the State. For more information on gambling and horse racing in Maryland, consult the *Legislators' Guide to Video Lottery Terminal Gambling*.

Background: Over the past several legislative sessions, various proposals have been introduced to authorize VLTs at the State's horse racing tracks or other tourist destinations in the State. Numerous states have authorized VLT gambling. For more information on prior year introductions and other state VLT regimes, consult the *Legislators' Guide to Video Lottery Terminal Gaming*.

State Revenues: The amount of revenues generated by the bill depend on a variety of factors that cannot be reliably predicted. These factors include the number and location of VLT facilities, number and type of table games, amount of application fees paid, and if a revenue sharing agreement is reached with a neighboring state with VLTs.

General fund revenues would increase due to VLT gaming revenues. In addition to depending on the number and location of VLT facilities, the provisions of the bill that provide that licensees receive compensation immediately upon being issued a license are likely to affect the amount of State revenues generated by eliminating the incentive for the operator to generate revenues.

General fund revenues would increase from table game revenues. The amount of increase depends on the total number of games authorized, the specified State share of revenues, and type of games. In fiscal 2002, the average win per table game at 10 casinos located in Iowa was \$773, with a minimum of \$431 and a maximum of \$1,099. A total of 317 table games generated \$89.4 million in gross proceeds.

State Expenditures: Expenditures would increase by an unspecified amount for State lottery agency administrative costs. Expenditures would also increase for payments to local community coalitions, compulsive gambling treatment costs, and for the Maryland-bred fund.

Payments to licensees would be based on the estimated net revenues that the facility would generate in an unspecified time. The payment would be made when the license is issued. If actual VLT revenues are different from the estimated revenues, there is no provision for adjusting the payments made to the licensees.

Indirect Expenditures

In addition to positive indirect effects to the economy, negative impacts could be expected as well. These effects could include increased levels of crime, unemployment, and personal bankruptcies which could result in a need to significantly increase the State and local spending directed toward these effects. Legislative Services advises that the amount of additional expenses cannot be quantified due to estimation difficulties.

Small Business Effect: To the extent that VLT facilities purchase goods from local businesses that are small businesses, these small businesses would benefit. Other small businesses could be harmed by the substitution of consumer spending away from other consumption to gambling. Small businesses in the entertainment and retail food service near VLT facilities could be particularly harmed.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Lottery Agency, Comptroller's Office, Department of Health and Mental Hygiene, Department of Legislative Services

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