

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1170
Ways and Means

(Delegate Simmons)

**Election Law - Campaign Contributions by Persons Engaged in Gaming Activity
in the State**

This bill prohibits the State from issuing a license or other permit to conduct specified gaming activity in the State to a person who directly or indirectly makes a contribution to the campaign finance entity of a candidate for public office in the State or political party, or to any other campaign finance entity organized in support of a candidate or political party, for a period of three years from the date the contribution was made. If a person that holds a license or other permit to conduct gaming activity in the State makes such a contribution, the person's license or other permit is suspended for three years from the date of the contribution.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: To the extent the bill limits the number of video lottery operation licenses issued by the State or results in the suspension of an issued license, State special fund revenues may decrease significantly in FY 2010 and future years. Other State revenue and expenditure impacts associated with video lottery terminal (VLT) operations may also be affected. Implementation of the bill can be handled with existing resources.

Local Effect: Local government revenues similarly may decrease significantly in FY 2010 and future years. Other local government revenue and expenditure impacts associated with VLT operations may also be affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill applies to the following individuals and entities:

- an applicant for a license to engage in gaming activity in the State;
- a licensee or other person authorized to engage in gaming activity in the State;
- a key employee; a holding company, intermediary company, or a subsidiary company; or a person or agent acting on behalf of an applicant for a license to engage in gaming activity or a licensee or other person authorized to engage in gaming activity in the State; and
- a person who owns an interest in the operation of video lottery or in other gaming activity.

“Gaming activity” is defined as a VLT or a casino authorized by the State. “Key employee” is defined as an individual who, acting as an agent or video lottery employee of a person or licensee, supervises more than two agents or employees of the person or licensee authorized to engage in gaming activity in the State.

“Licensee,” “own,” “video lottery,” and “video lottery terminal” have the meanings stated under State law provisions enacted by Chapter 4 of the 2007 special session, which establishes the operational and regulatory framework for the VLT program authorized under the constitutional amendment proposed by Chapter 5 of the 2007 special session and approved by Maryland voters at the November 2008 election.

The bill exempts gaming activity that an eligible organization is authorized to conduct under the Criminal Law Article.

Current Law: State campaign finance law prohibits: (1) anonymous contributions; (2) contributions made during the legislative session; and (3) contributions from State-funded entities.

As mentioned above, Chapter 5 of the 2007 special session, a constitutional amendment authorizing 15,000 VLTs at five locations in the State was approved by Maryland voters at the November 2008 general election. The amendment also specifies that the General Assembly may only authorize expanded forms of gambling subject to certain restrictions. Chapter 4 of the 2007 special session establishes the operational and regulatory framework for the authorized VLT program. The initial term of a video lottery operation license (of which up to five may be awarded through a competitive bidding process) is 15 years. A licensee may subsequently reapply for an additional 10-year term. A Video Lottery Facility Location Commission established under Chapter 4 awards the video lottery operation licenses.

Chapter 4 of the 2007 special session, as amended by Chapter 620 of 2008, also established specified campaign finance reporting requirements for ballot issue committees formed to promote the success or defeat of the constitutional amendment proposed by Chapter 5 of the 2007 special session and persons making cumulative expenditures totaling more than \$10,000 to promote the success or defeat of the amendment.

Background: The Video Lottery Facility Location Commission was appointed in November 2008 and issued a request for proposals for video lottery facility operation licenses in December. Initial bids were due February 2, 2009, and supplemental bid information must be submitted by April 15, 2009. The commission will evaluate proposals over the summer and expects to make license awards in fall 2009. The State Lottery Commission will be responsible for issuing the licenses to the awardees and will administer the VLT program.

Several states have provisions in state law prohibiting political contributions by gaming-related persons. For example, the New Jersey Casino Control Act prohibits political contributions, made directly or indirectly, by an applicant for or holder of a casino license, or any holding, intermediary, or subsidiary company thereof. The prohibition extends to any officer, director, or casino key employee or principal employee of those individuals or entities, and any person or agent acting on behalf of any such applicant, holder, company, or person. The Michigan Gaming Control and Revenue Act also prohibits political contributions by specified persons involved in gaming activity. Pennsylvania also prohibits political contributions by specified persons or entities involved in gaming.

State and Local Fiscal Effect: To the extent the bill may preclude the State from awarding video lottery operation licenses to bidders for the licenses and, as a result, limit the number of licenses awarded by the State, State special fund revenues to the Education Trust Fund may decrease significantly in fiscal 2010 and future years. Local revenues from impact grants may also decrease significantly beginning in fiscal 2011. State and local revenues also may significantly decrease to the extent an issued license is suspended because a licensee makes a contribution to a campaign finance entity. Projected revenues from the VLT operations are shown in **Exhibit 1**. Gross VLT revenue is distributed as follows, pursuant to Chapter 4 of the 2007 special session:

- Business Investment – 1.5% to a small, minority, and woman-owned business investment account;
- Lottery (Administration) – 2% to the State lottery for administrative costs, with other costs provided for in the State budget;

- Local Government 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);
- Horse Racing Industry – 7% to a purse dedication account to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually; 2.5% for an eight-year period to a Racetrack Renewal Fund, not to exceed \$40 million annually;
- Licensee (Operator) – no more than 33% to video lottery operation licensees; and
- Education Trust Fund – remainder to Education Trust Fund (48.5%-51.0%).

Other State and local revenue and expenditure impacts associated with VLT operations presumably may also be affected by the bill, to the extent it limits the number of licenses issued or results in the suspension of an issued license.

Exhibit 1
Gross VLT Revenue Projections

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Education Trust Fund	\$90,000,000*	\$12,931,123	\$365,856,738	\$613,860,465	\$663,525,658
Licensees		8,798,496	248,933,450	417,678,254	451,471,066
Local Government		1,466,416	41,488,908	69,613,042	75,245,178
Small, Minority, Woman-owned Businesses		399,932	11,315,157	18,985,375	20,521,412
Purse Dedication Account		1,866,348	52,804,065	88,598,418	95,766,590
Racetrack Renewal Account		666,553	18,858,595	31,642,292	34,202,354
Lottery Operations		533,242	15,086,876	25,313,834	27,361,883
Total Annual Gross	\$90,000,000	\$26,662,109	\$754,343,789	\$1,265,691,680	\$1,368,094,141

*Assumes initial license fee payment for maximum VLTs authorized. A total of \$39.3 million in initial license fees has been received to date.

Source: Department of Legislative Services

Small Business Effect: To the extent the bill limits the number of licenses issued or results in the suspension of an issued license, small businesses may be indirectly affected. Small businesses are expected to benefit from the establishment of VLT operations (such as those from which VLT facilities may purchase goods, horse industry breeders and owners, those that would benefit from additional tourists, and those that would benefit from funding from the Small, Minority, and Women-Owned Business Account) and also potentially harmed (in the event consumer spending is substituted away from other consumption to gambling). To the extent the bill will limit the number of VLT facilities in operation, these effects presumably will be lessened.

Additional Information

Prior Introductions: HB 576 of 2006, HB 274 of 2004, and HB 105 of 2003 each received a hearing in the House Ways and Means Committee, but no further action was taken on the bills. HB 817 of 2005 received an unfavorable report from the House Ways and Means Committee.

Cross File: None.

Information Source(s): State Board of Elections, State Ethics Commission, Comptroller's Office, State Lottery Agency, Department of Legislative Services

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