

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 14 (Delegate George)
Ways and Means

Gaming - Video Lottery Facilities - Restriction on Location

This bill establishes that in order to qualify for a video lottery operation license, a proposed video lottery facility may not be located within 1,000 feet of a church, community center, playground, school, or shopping center unless the proposed facility is located on the site of an existing horse racecourse.

The bill does not apply to a video lottery facility for which a license has been awarded or issued on or before the effective date of October 1, 2010.

Fiscal Summary

State Effect: Potential decrease in special fund revenues and expenditures from the Video Lottery Terminal (VLT) program. Additional restraints on the potential location of video lottery facilities in Allegany County and Baltimore City may negatively impact the number and quality of bids for these facilities and potentially delay the award of facility licenses. As a result, future special fund VLT program revenues, and to a lesser extent, special fund expenditures may be diminished.

Local Effect: To the extent that the earning potential of future VLT facilities in Allegany County and in Baltimore City would be inhibited, these respective jurisdictions would receive diminished local impact grant funds.

Small Business Effect: None.

Analysis

Current Law: 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.

A seven-member Video Lottery Facility Location Commission established under Chapter 4 awards the video lottery operation licenses. Three members (including the chair) are appointed by the Governor, two each are appointed by the Senate President and the Speaker of the House of Delegates. Members may not be elected officials and must file annual financial disclosure statements.

The nine-member State Lottery Commission provides oversight for VLT implementation in the State. The State Lottery Commission owns and leases VLTs and the central monitor and control system. No elected officials may be appointed to the commission and a member of the commission serves as a liaison to the Racing Commission and vice versa.

Video Lottery Terminals and Facilities

A maximum of 15,000 VLTs are authorized in the State, as follows:

- 4,750 VLTs at a location in Anne Arundel County within two miles of Route 295;
- 3,750 VLTs in Baltimore City, in a nonresidential area within one-half mile of Interstate 95 and Route 295, on city-owned land that is not adjacent to or within one-quarter mile of residential property;
- 2,500 VLTs at a location in Worcester County within one mile of the intersection of Route 50 and Route 589;
- 2,500 VLTs at a location in Cecil County within two miles of Interstate 95; and
- 1,500 VLTs on State property in Allegany County associated with the Rocky Gap State Park in a building physically separate from the Rocky Gap Lodge and Golf Resort.

VLT facilities must comply with all applicable planning and zoning laws of the local jurisdiction. The Video Lottery Facility Location Commission may alter allocations if warranted by an evaluation of market and other factors; however, no more than 4,750 VLTs may be placed at any one location and no more than one video lottery operating license may be awarded in a single county or Baltimore City. The commission is to

evaluate bids based on: 70% on several business and market factors, including the highest potential revenues derived by the State, job creation and preservation within the State, and the percentage of Minority Business Enterprise (MBE) equity ownership; 15% on economic development factors; and 15% on location siting factors. There is no requirement for all five video lottery operation licenses to be issued.

The statutory allocation of the gross VLT revenues, after payouts to bettors, is as follows:

- Small, Minority, and Women-owned Business Investment Account: 1.5% to a small, minority, and women-owned business investment account;
- State Lottery: 2.0% to the lottery for administrative costs, with other costs provided for in the annual State budget;
- Local Impact Grants: 5.5% to local governments where a video lottery facility is operating, 18.0% of which would go for 15 years (starting in fiscal 2012) 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: 7.0% to a purse dedication account to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually; and 2.5% for an eight-year period to a Racetrack Facility Redevelopment Account, not to exceed \$40 million annually;
- Licensee (Operator): 33.0% to video lottery operation licensees; and
- Education Trust Fund: the remainder (48.5 to 51.0%) to the Education Trust Fund.

Revenues accruing to the Education Trust Fund are to be used for the Bridge to Excellence in Public Schools Act funding (including the Geographic Cost of Education Index), public school construction funding, and public higher education construction, including community colleges.

Background: Pursuant to State law and the request for proposals (RFP) released in December 2008, proposals for video lottery operation licenses were due by February 2, 2009. The Location Commission received six proposals on that date – two for Anne Arundel County and one each for the other four locations. On February 12, 2009, the commission determined that four of the six proposals met the

minimum requirements of the statute and the RFP – one of the proposals for Anne Arundel County and the proposal for Allegany County were rejected by the commission for failing to meet the minimum requirements, including failing to pay the required license fee.

Awarded Video Lottery Operation Licenses

The Location Commission's evaluation of proposals has consisted of market analyses, economic impact analyses, an analysis of each proposal's financial viability, site visits to proposed facility locations, public hearings, and a review of traffic impact studies by the State Highway Administration.

The Location Commission has awarded video lottery operation licenses for Anne Arundel, Cecil, and Worcester counties VLT locations. The bill states that it does not apply to these locations, which were awarded licenses before the October 1, 2010 effective date:

- PPE Casino Resorts Maryland, LLC (PPE Casino Resorts) was awarded a license to operate a 4,750 VLT facility in Hanover in Anne Arundel County, contingent upon local zoning approval (Anne Arundel County Council approved favorable zoning legislation on December 21, 2009, which the County Executive signed into law on December 22, 2009). PPE Casino Resorts paid the initial license fee of \$28.5 million for 4,750 VLTs and plans to spend \$243 million for land acquisition and construction of a 215,000 square foot facility adjacent to Arundel Mills Mall. PPE Casino Resorts expects to open a permanent facility with 4,750 VLTs in December 2011.
- Penn Cecil Maryland, Inc. (Penn Cecil) was awarded a license to operate a facility with 1,500 VLTs in Perryville in Cecil County. Penn Cecil paid the initial license fee of \$9 million for 1,500 VLTs and plans to spend \$77 million to construct an 86,440 square foot VLT facility and a 29,950 square foot support facility. Penn Cecil is currently on schedule to open a permanent facility with 1,500 VLTs in October 2010.
- Ocean Enterprise 589 LLC (OE 589) was awarded a license to operate a facility with 800 VLTs at Ocean Downs Racetrack in Worcester County. OE 589 paid the initial license fee of \$4.8 million for the 800 VLTs and plans to spend \$45.0 million to construct a 34,000 square foot VLT facility. OE 589 was scheduled to open in May 2010 with 600 VLTs; however, asbestos and other structural issues have delayed construction on the VLT facility.

On December 17, 2009, the Location Commission rejected the proposal from the Baltimore City Entertainment Group, LP (BCEG) for the Baltimore City location. BCEG's proposal provided for 500 VLTs and the corresponding \$3 million fee. The commission found the BCEG proposal to be not in the best interest of the State, citing the small scale of the proposal submitted and several missed deadlines for submitting an amended proposal for additional VLTs and the required additional license fee; the site selection process used by Baltimore City; and the possibility that rebidding the location in a more favorable economic climate could solicit competitive proposals.

Allegany County and Baltimore City

The commission expects to rebid the Allegany County and Baltimore City and locations in calendar 2010. The Maryland Department of Natural Resources advises that there is both a playground and a church within 1,000 feet of the Lodge at Rocky Gap State Park.

Baltimore City advises that Sharp Leadenhall Elementary school and a retail facility are within 1,000 feet of portions of the prescribed area for a VLT facility in the city.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Allegany, Anne Arundel, Cecil, and Worcester counties; Baltimore City; Comptroller's Office; Maryland State Lottery Agency; Department of Labor, Licensing, and Regulation; Department of Natural Resources; Department of Legislative Services

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