

**Department of Legislative Services**  
2011 Session

**FISCAL AND POLICY NOTE**

House Bill 1021  
Ways and Means

(Delegates Walker and F. Turner)

**Gaming - Video Lottery Operation Licenses - Frederick County**

This constitutional amendment proposes that a video lottery operation license be awarded for a video lottery facility in Frederick County. The location must be within five miles of the intersection of Interstate 270 and Interstate 70. The amendment proposes that the number of video lottery terminals (VLTs) that may be authorized by the General Assembly increases from 15,000 to 17,500 and that the maximum number of VLT facilities increases from five to six. The amendment must be approved by a majority of voters in the State.

After November 15, 2012, the General Assembly may only authorize additional forms or expansion of gaming if approved through a referendum by a majority of the voters in a general election.

**Fiscal Summary**

**State Effect:** If the proposed constitutional amendment is approved by the General Assembly and voters, special fund revenues will increase in FY 2013 due to one-time license fees and beginning in FY 2015 due to VLT revenues. General fund expenditures increase in FY 2015 and beyond due to Lottery Agency expenditures. Special fund revenues and expenditures increase for the purposes specified by the VLT program beginning in FY 2015. Special fund expenditures for education occur in FY 2013 and beginning in FY 2015 offsetting general fund expenditures by a corresponding amount.

(\$ in millions)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
SF Revenue	\$0	\$15.0	\$0	\$37.4	\$154.2
GF Expenditure	\$0	(\$15.0)	\$0	(\$17.4)	(\$69.4)
SF Expenditure	\$0	\$15.0	\$0	\$37.4	\$154.2
Net Effect	\$0	\$15.0	\$0	\$17.4	\$69.4

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

**Local Effect:** Frederick County revenues increase by approximately \$1.7 million in FY 2015, increasing to \$7.0 million in FY 2016. Frederick County expenditures for infrastructure improvements may increase depending upon specific plans for the site.

**Small Business Effect:** Small businesses will benefit from increased funds to the business investment account and to horse industry investments. Additional benefits from any construction and operation of an additional VLT facility will be partially offset by the substitution of VLT wagering for other expenditures.

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## Analysis

**Current Law:** 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. Chapter 624 of 2010 made several changes to the VLT program implemented by Chapter 4.

Under Chapter 4, VLT facility operation licenses are awarded by the Video Lottery Facility Location Commission. The State Lottery Commission oversees VLT operations, and owns/leases VLTs and a central monitor and control system. Except for provisions related to the offering of food and beverages at facilities, the commission is required to ensure VLT licensees comply with the regulatory framework of the VLT program.

Chapter 4 allows for a maximum of 15,000 VLTs, distributed as follows: 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). **Exhibit 1** shows the distribution of estimated VLT revenues through fiscal 2016, which assumes a Baltimore City facility begins operations in July 2013.

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**Exhibit 1**  
**Distribution of Estimated VLT Revenues in Maryland**  
**(\$ in Millions)**

	<b><u>FY 2011</u></b>	<b><u>FY 2012</u></b>	<b><u>FY 2013</u></b>	<b><u>FY 2014</u></b>	<b><u>FY 2015</u></b>	<b><u>FY 2016</u></b>
Education Trust Fund (48.5%-51.0%)	\$64.1	\$192.3	\$286.6	\$471.3	\$512.3	\$549.4
Licensees (33%)	43.6	130.8	195.0	320.7	348.6	373.9
Local Impact Grants (5.5%)	7.3	21.8	32.5	53.4	58.1	62.3
Business Investment (1.5%)	2.0	5.9	8.9	14.6	15.8	17.0
Purse Dedication Account (7%) <sup>1</sup>	9.2	27.8	41.4	68.0	73.9	79.3
Racetrack Renewal (2.5%) <sup>2</sup>	3.3	9.9	14.8	24.3	26.4	28.3
Lottery Operations (2%)	2.6	7.9	11.8	19.4	21.1	22.7
<b>Total (100%)</b>	<b>\$132.1</b>	<b>\$396.5</b>	<b>\$590.9</b>	<b>\$971.8</b>	<b>\$1,056.4</b>	<b>\$1,132.9</b>

<sup>1</sup>Up to \$100 million annually.

<sup>2</sup>Up to \$40 million annually for eight years, after which the monies accrue to the Education Trust Fund. Chapter 624 of 2010 altered provisions regarding the authorized VLT facility in Allegany County. Contingent upon the purchase of the Rocky Gap Lodge and Golf Resort by the licensee, the 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.

Source: Department of Legislative Services, December 2010 Revenue Estimate

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*Video Lottery Operation Licensing and Licensees*

An individual or business entity may not own an interest in more than one video lottery facility. An initial license fee of at least \$3 million for every 500 VLTs is required, which accrues to the Education Trust Fund (ETF). 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.

License applicants must meet State minority business enterprise (MBE) requirements for construction/procurement contracts and to the extent possible meet county MBE requirements if they exceed the State requirement. These requirements terminate on July 1, 2011. License applicants must also invest \$25 million in construction and related costs for every 500 VLTs proposed in a bid. VLT licensees must begin operations in a permanent facility within 18 months after the license is issued, which may be extended 12 months by the State Lottery Commission. VLT licensees must pay an annual fee of \$425 per VLT for a Problem Gambling Fund administered by the Department of Health and Mental Hygiene (DHMH). DHMH is required to conduct a problem and pathological gambling prevalence study to measure the rate of problem and pathological gambling in the State.

### *Other Provisions of Current Law*

VLTs must have an average payout percentage of at least 87%. Free food and alcoholic beverages are generally prohibited at VLT facilities. By regulation, the State Lottery Commission must establish a list of individuals who are mandatorily excluded from VLT facilities. VLT facilities must develop procedures that permit self-exclusion from facilities for individuals with gambling problems. Regulations are also required for the protection of consumers, including a prohibition on cashing of paychecks at VLT facilities. A VLT facility may offer any State lottery game.

**Background:** The Video Lottery Facility Location Commission has awarded video lottery operation licenses for VLT facility locations in Anne Arundel, Cecil, and Worcester counties. Penn Cecil in Cecil County opened in late September 2010 with 1,500 VLTs, and Ocean Downs in Worcester County opened in January 2011 with 750 (increasing to 800 in the near future) VLTs. Power Plant Entertainment (PPE) Casino Resorts, LLC was awarded a license in December 2009 to operate a 4,750 VLT facility adjacent to Arundel Mills Mall in Anne Arundel County, contingent upon local zoning approval. County officials subsequently approved zoning legislation, but the legislation was petitioned to a local voter referendum at the November 2010 election. Anne Arundel County voters approved the legislation, allowing the VLT facility to go forward. PPE plans to open a 2,000 VLT temporary facility by the end of 2011 with a permanent facility scheduled to open by the end of 2012. The licenses for Baltimore City and Allegany County are yet to be awarded.

**State Revenues:** If the proposed constitutional amendment is approved by the General Assembly and voters, the State will continue to be limited in the number of VLTs and video lottery facilities that may be authorized. It is assumed that implementing legislation is passed subsequent to the constitutional amendment.

Current law requires an initial license fee of \$3 million for every 500 VLTs. Although the bill does not specify, it is assumed that an application with an initial license fee will be submitted by April 15, 2013. Assuming that license applicants opt to participate and pay the license fee by this date, ETF revenues will increase by \$15 million in fiscal 2013.

### *VLT Revenues*

After payouts to winning players, but **before** any other distributions are made, total revenues generated could reach approximately \$37.4 million in fiscal 2015 and \$154.2 million in fiscal 2016. This estimate assumes that (1) the facility will initially operate at 50% capacity in April 2015 (two years after the assumed bid submission date) and reach full capacity one year later; and (2) 2,500 VLTs are awarded. Revenues will be

potentially higher (lower) than estimated to the extent that operations begin earlier (later) than estimated.

A win per day (WPD) estimate of \$241 at peak capacity for the VLT facility is based on the location, and its proximity to other VLT facilities. Legislative Services advises that the gross VLT revenue estimate will be higher or lower than estimated depending on the economic and market conditions that develop as the bill is implemented, including expansion of gaming in the surrounding states. Other assumptions used in estimating VLT revenues are:

- VLTs will operate 365 days a year, once operational;
- Virginia and the District of Columbia do not authorize VLT gambling; and
- West Virginia and Delaware do not expand their number of VLT facilities.

The estimated net change in VLT revenues accounts for proximity to neighboring VLT facilities. **Exhibit 2** details the revenue distribution resulting from 2,500 VLTs at a Frederick County facility for fiscal 2013 through 2016.

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**Exhibit 2**  
**Gross VLT Revenue Projections**  
**(\$ in Millions)**

	<u><b>FY 2013</b></u>	<u><b>FY 2014</b></u>	<u><b>FY 2015</b></u>	<u><b>FY 2016</b></u>
Education Trust Fund (48.5-51.0%)	\$15.0*		\$18.1	\$74.8
Licensee (no more than 33%)			12.3	50.9
Local Impact Grants (5.5%)			2.1	8.5
Business Investment (1.5%)			0.6	2.3
Purse Dedication (7%)			2.6	10.8
Racetrack Renewal (2.5%)			0.9	3.9
Lottery Operations (2%)			0.7	3.1
<b>Total Annual Gross</b>	<b>\$15.0</b>	<b>\$0</b>	<b>\$37.4</b>	<b>\$154.2</b>

\*Assumes initial license fee payment for 2,500 additionally authorized VLTs is paid April 15, 2013.

Source: Department of Legislative Services

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### *Problem Gambling Fund*

Approximately \$1.1 million annually beginning in fiscal 2017, based on \$425 per VLT at full implementation of 2,500 VLTs, will be credited to the Problem Gambling Fund administered by DHMH. Approximately \$74,400 will be credited in fiscal 2015 and \$860,600 will be credited in fiscal 2016. The fund must be used to establish a 24-hour hotline, provide counseling for problem gamblers, and establish problem gambling prevention programs and other support services.

### **State Expenditures:**

#### *Maryland State Lottery Agency*

The Maryland State Lottery Agency will need to procure additional VLTs to be placed in a Frederick County video lottery facility at an estimated cost of \$1.3 million in fiscal 2015 and \$8.3 million in fiscal 2016. Expenditures for the central computer system required for the overall VLT program may increase as well. Legislative Services estimates that the State Lottery Agency will require two additional security investigators and one accountant/auditor at a cost of approximately \$200,000 in fiscal 2015, increasing to \$207,000 in fiscal 2016.

From the VLT proceeds generated at Frederick County, \$747,600 will be distributed to the Lottery Agency in fiscal 2015 and \$3.1 million in fiscal 2016 and will be insufficient to pay for increased Lottery Agency expenditures. Accordingly, general fund expenditures will increase by \$729,900 in fiscal 2015 and by \$5.4 million in fiscal 2016.

#### *Education Trust Fund and Other VLT Fund Expenditures*

In light of the substantial structural deficit currently forecasted through fiscal 2016, it is assumed that all of the available ETF proceeds received are used to support operating programs and, therefore, offset general fund expenditures. Accordingly, general fund expenditures decrease by \$18.1 million in fiscal 2015 and by \$74.8 million in fiscal 2016.

Special fund expenditures will increase by \$19.3 million in fiscal 2015 and by \$79.4 million in fiscal 2016, which reflects the distribution of VLT proceeds to the licensee of the facility; to local governments; purse dedication and racetrack renewal accounts; and small, minority, and woman-owned businesses.

### *Infrastructure Costs*

The State could incur significant costs associated with infrastructure and transportation upgrades near the proposed facility. The actual impact will depend upon specific plans for any future video lottery facility at the location.

### *Indirect State Expenditures*

In addition to the 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. Although these costs cannot be reliably estimated, Legislative Services estimates that these costs are likely to be greater than the funds dedicated to the Problem Gambling Fund under this bill. For a more in-depth discussion about the possible social costs as a result of authorizing VLTs, consult the *Legislator's Guide to Video Lottery Terminal Gambling*.

**Local Fiscal Effect:** Local revenues for Frederick County will increase by \$1.7 million in fiscal 2015 increasing to \$7.0 million in fiscal 2016, which is 82% of the total local impact revenue that goes to local jurisdictions under current law. Frederick County infrastructure costs may increase due to the facility. The extent of any increased infrastructure expenditures will depend upon specific plans for a video lottery facility and the degree to which needed infrastructure improvements are not covered by State expenditures.

The Maryland Constitution requires that proposed amendments to the constitution be publicized either (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2012 general election in newspapers or on specimen ballots.

**Small Business Effect:** To the extent that the VLT facility purchases goods from local businesses that are small businesses, these small businesses will benefit. Small business horse industry breeders and owners in the thoroughbred and standardbred racing industry would benefit. Some small businesses, especially those located near the facility, may be harmed as a result of substituting VLT wagering for other expenditures. Expenditures

from the Small, Minority, and Woman-owned Business Investment Account will benefit small businesses.

Other small businesses will be harmed by the substantial substitution of consumer spending away from other consumption to gambling. Small businesses in the entertainment and retail food service near VLTs could be particularly harmed.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

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