

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 512

(Senators Edwards and Miller)

Budget and Taxation

Ways and Means

Gaming - Video Lottery Terminals

This emergency bill alters the distribution of video lottery terminal (VLT) proceeds from a video lottery facility in Allegany County for the first 10 years of its operations; specifically, the bill increases the video lottery operation licensee's maximum share to 50% and reduces all other distributions except the State Lottery Agency. The minimum percentage of VLT revenues to the Education Trust Fund (ETF) is reduced to 42%.

Fiscal Summary

State Effect: Due to Allegany County VLT facility operations for 500 VLTs, special fund VLT revenues to ETF increase by \$8.7 million in FY 2014, increasing by 3% annually thereafter. General fund expenditures for education decrease by commensurate amounts each year. Also, special fund VLT revenues to the State Lottery Agency increase by \$415,000 in FY 2014 and increase by 3% annually. In total, special fund VLT revenues and expenditures increase by \$20.8 million in FY 2014, increasing by 3% annually thereafter, accounting for total projected proceeds from the Allegany County VLT facility. To the extent that more than 500 VLTs are awarded, special fund ETF revenues increase from the additional initial license fees and the revenues and expenditures noted above expand accordingly.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
SF Revenue	\$0	\$0	\$20,768,900	\$21,391,900	\$22,033,700
GF Expenditure	\$0	\$0	(\$9,138,300)	(\$9,412,500)	(\$9,694,800)
SF Expenditure	\$0	\$0	\$20,768,900	\$21,391,900	\$22,033,700
Net Effect	\$0	\$0	\$9,138,300	\$9,412,500	\$9,694,800

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

Local Effect: VLT impact grants to Allegany County total approximately \$571,000 in FY 2014, increasing by approximately 3% annually.

Small Business Effect: Potential meaningful. The distribution of VLT proceeds to the small, minority, and women-owned business investment account and purse dedication account increase under the bill, beginning in FY 2014.

Analysis

Bill Summary: 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 initial license fee is waived for up to 500 VLTs for the Allegany County operation license. The bill reduces from 1,500 to 1,000 the maximum number of VLTs that may be awarded to a video lottery facility in Allegany County.

The bill 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 the lodge, including any replacement meeting space.

The bill clarifies that VLTs and associated equipment and software owned or leased by the State Lottery Commission, regardless of the VLT facility where they are used, are not subject to property tax. Also, for all VLT facilities, authorized weekend hours of operations are extended by four hours total. Finally, the bill allows fund managers to use funds from the small, minority, and women-owned business account to pay administrative, actuarial, legal, and technical services expenses; the Board of Public Works must set the maximum amount of such spending allowed.

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.

Chapter 624 of 2010 made a variety of clarifying and technical changes to the VLT law and also 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 (RFRA) would instead be distributed to the Allegany County facility licensee.

Under current law, 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;
- State 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 to the RFRA for racetrack capital construction and improvements, not to exceed \$40 million annually (*0% from Allegany County facility for five years, contingent on the purchase of the lodge by the licensee*);
- Licensee (Operator) – no more than 33% to video lottery operation licensees (*no more than 35.5% to Allegany County licensee for five years, contingent on the licensee's purchase of the lodge*); and
- Education Trust Fund (ETF) – remainder to Education Trust Fund (48.5%-51.0%).

Chapter 4 of the 2007 special session created the Education Trust Fund (ETF), which receives a portion (48.5% to 51.0%) of VLT proceeds and 100% of the initial license fees to fund continuation of the Bridge to Excellence Act education formulas and programs including the geographic cost of education index funding. Public school construction and capital projects at public institutions of higher education, including community colleges, are also eligible for funding. The ETF is estimated to provide \$83.6 million in funds for education in fiscal 2011, increasing to \$549.4 million by fiscal 2016 as a result of

continued expansion of the VLT program in the State. In the fiscal 2010, 2011, and fiscal 2012 State budget, and in the Governor's forecast through fiscal 2016, ETF revenues are being used to support State education aid formulas in lieu of general funds.

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 may alter these allocations of VLTs if warranted by an evaluation of market and other factors, subject to a maximum of 4,750 VLTs at any location.

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 (PPE) originally planned 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. In April 2011 PPE announced plans to delay the temporary facility opening until June 2012 with 2,750 VLTs. The permanent 4,750 VLT facility is still expected to open in October 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 reflects recommendations of the Location Commission to consider (1) allowing VLTs to be permanently located in the existing lodge structure; (2) establishing requirements regarding meeting space; (3) requiring that the applicant purchase the lodge; and (4) making the purchase price for the lodge count toward the capital investment requirement. The Location Commission suggested considering that the initial license fee for up to 500 machines be waived as *an alternative to*, not in addition to, increasing the operator's share of VLT proceeds. The Location Commission also suggested making the applicant for the Allegany County operation license eligible for one additional operation license in the State, but that was not adopted by the General Assembly.

Exhibit 1 shows the change in the distribution of VLT proceeds from the Allegany County facility under certain assumptions. Current law restores the 2.5% distribution from the Allegany County facility to the RFRA after the fifth year, reducing the maximum distribution to the operator by an equal amount, to a total of 33.0%. Under this bill, the operator will receive up to 50% of the proceeds for 10 years, instead of 33% or 35.5%. The bill will provide no funds to the RFRA from the Allegany County facility.

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.

Exhibit 1
Distribution of VLT Proceeds from Allegany County Facility

	<u>Current Law</u>	<u>SB 512²</u>
Business Investment	1.5%	0.75%
State Lottery	2.0%	2.0%
Local Impact Grants	5.5%	2.75%
Purse Dedication Account	7.0%	2.5%
Racetrack Facility Renewal Account	2.5% ¹	0.0%
Licensee (Operator)	33.0% ¹	50.0%
Education Trust Fund (ETF)	48.5%	42.0%

¹Chapter 624 of 2010 provided that, for the first five years of operations, the licensee's share would increase to 35.5% if the lodge was purchased by the facility operator with the additional 2.5% reallocation from the Racetrack Facility Renewal Account. SB 512 eliminates these provisions.

²For the first 10 years of operations. After 10 years the distribution reverts back to current law.

Source: Department of Legislative Services

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 Revenues: Increasing the facility operator's share of VLT proceeds for the first 10 years of operations, 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.

Legislative Services has previously estimated gross VLT proceeds from the Allegany County VLT facility at \$20.8 million to \$62.3 million at full implementation with 500 and 1,500 VLTs, respectively. However, in the absence of any viable bids, the most recent VLT revenue estimate assumes \$0 from the Allegany facility. Therefore, depending on the number of VLTs awarded the bill increases special fund revenues by \$20.8 million to \$41.5 million beginning in fiscal 2014. It is assumed the facility would open in July 2013 with at least 500 VLTs. VLT revenues distributed to the ETF and to the State Lottery Agency for administration of the VLT program increase to the extent the bill expedites the opening and operations of a video lottery facility in Allegany County. Legislative Services notes that while reducing the number of VLTs that may be awarded to the Allegany County facility reduces the potential revenue generated at the facility, the overall number of VLTs that may be awarded statewide is not reduced by the bill.

The impact of extending operations by two hours each on Saturday and Sunday is difficult to quantify, but will likely increase annual VLT revenues between 1% and 3%.

State Expenditures: Increasing VLT revenues to the ETF from the Allegany County facility decreases general fund expenditures by an equivalent amount. Based on the estimated VLT proceeds described above, and the 1,000 VLT limitation, general fund expenditures decrease by at least \$8.7 million beginning in fiscal 2014 and increasing by 3% annually.

State Lottery Agency expenditures increase somewhat due to extended VLT facility operating hours.

Local Fiscal Effect: Based on the VLT estimates described above, local impact grants to Allegany County increase by at least \$571,000 beginning in fiscal 2014 and increasing by an additional 3% annually.

The bill clarifies that the local personal property tax in a county with an operating VLT facility, including Cecil and Worcester counties, may not be imposed on VLTs, or associated equipment or software, that are in operation in calendar 2010 and thereafter.

Additional Information

Prior Introductions: None.

Cross File: HB 565 (Allegany County Delegation - Ways and Means) is identified as a cross file but is no longer identical.

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

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