

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 823 (Senator Edwards)
Budget and Taxation

Gaming - Video Lottery Terminals - Allegany County

This emergency bill alters the distribution of video lottery terminal (VLT) proceeds from a video lottery facility in Allegany County if the proceeds generated by the VLTs at the Allegany County location are less than the average VLT proceeds generated at the other video lottery facilities in the State, as determined by the State Lottery Commission. The bill also repeals an exception for the Allegany County site regarding distribution of funds to the Racetrack Facility Renewal Account (RFRA) if the applicant awarded the video lottery facility operation license agrees to purchase the Rocky Gap Lodge and Resort (the lodge).

Fiscal Summary

State Effect: Assuming VLT operations in Allegany County will yield less than average proceeds compared to other State VLT facilities, special fund VLT revenues to the Education Trust Fund (ETF) and to the State Lottery Agency decrease. However, special fund revenues to the Education Trust Fund and 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. The fiscal year impacts depend upon the date that VLT operations in Allegany County begin.

Local Effect: VLT impact grants to Allegany County are reduced by 50%, but to the extent the bill expedites the opening and operations of a video lottery facility in Allegany County, VLT local impact aid revenues increase in the county.

Small Business Effect: Minimal.

Analysis

Bill Summary/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.

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;
- 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%).

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 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 plans 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. The licenses for Baltimore City and Allegany County have yet to be awarded.

Allegany County 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 for the Allegany County location by the November 2010 due date.

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%. The bill will provide no funds to the RFRA from the Allegany County facility unless the facility performs above the State average.

Exhibit 1
Distribution of VLT Proceeds from Allegany County Facility

	<u>Current Law¹</u>	<u>Bill²</u>
Business Investment	1.5%	0.75%
State Lottery	2.0%	1.0%
Local Impact Grants	5.5%	2.75%
Purse Dedication Account	7.0%	3.5%
Racetrack Facility Renewal Account	0.0%	0.0%
Licensee (Operator)	35.5%	50.0%
Education Trust Fund (ETF)	48.5%	42.0%

¹ For the first five years of operations, assuming the lodge is purchased by the facility operator.

² Assumes VLT proceeds for Allegany County are below the State average, as determined by the State Lottery Agency.

Source: Department of Legislative Services

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.

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 are owed to 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. The Maryland Economic Development Corporation (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 Fiscal Effect: According to the State Lottery Agency, in February 2011, the Cecil County facility generated \$9.0 million in gross revenues and the Worcester County facility generated \$6.2 million. As an illustration, under the bill, for every \$5.0 million in gross revenues generated by the Allegany County site, the distribution to the facility operator increases by \$725,000, the distribution to the ETF decreases by \$325,000, and the distribution to the State Lottery Agency decreases by \$50,000. However, 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.

Local Fiscal Effect: For every \$5.0 million in gross revenues generated by the Allegany County facility, local impact grants to Allegany County decrease by \$137,500. However, to the extent the bill expedites the opening and operations of a video lottery facility in Allegany County, local impact grant revenues increase in the county.

Additional Information

Prior Introductions: None.

Cross File: HB 755 (Delegate K. Kelly, *et al.*) - Ways and Means.

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

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