

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 384
Ways and Means

(Delegate Smigiel, *et al.*)

Gaming - Video Lottery Terminals - Repeal of Constitutional Amendment -
Changes to Statutory Provisions

This proposed constitutional amendment repeals constitutional provisions authorizing video lottery terminal (VLT) gambling. The proposed amendment also removes the restriction that 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. The bill provides for certain VLT constitutional provisions in the State Government Article.

Other than the constitutional amendment, the bill's statutory provisions take effect July 1, 2011.

Fiscal Summary

State Effect: If adopted by the General Assembly and the voters, deleting the requirement for voter approval of gaming expansion allows any future expansion to be implemented sooner, and may result in additional State revenues sooner.

Local Effect: If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2012 general election. It is not expected to result in additional costs for local election boards.

Small Business Effect: None.

Analysis

Bill Summary: The proposed constitutional amendment repeals Article XIX – Video Lottery Terminals of the Maryland Constitution. The bill transfers certain provisions contained in the Constitution to Subtitle 9-1A of the State Government Article (the VLT law). These provisions are:

- a statement that the primary purpose of the operation of video lottery terminals is to raise revenue for specified education purposes; and
- a requirement that video lottery facilities comply with any applicable planning and zoning laws of a local jurisdiction.

If the proposed constitutional amendment is approved, it will eliminate the restriction that the General Assembly may only authorize additional forms or expansion of commercial gaming if approval is granted through a referendum, as authorized by an act of the General Assembly and approved in a general election by a majority of qualified voters in the State.

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; and (3) a maximum of 15,000 VLTs may be authorized. It also specified the geographic boundaries for the five locations in Allegany, Anne Arundel, Cecil, and Worcester counties and Baltimore City. The constitutional amendment does not apply to authorized types of gambling, including State lotteries, wagering on horse racing, and any gaming conducted under Title 12 or Title 13 of the Criminal Law Article.

The primary purpose of issuing video lottery operation licenses is to raise revenue for (1) public school K-12 education; (2) public school construction and public school capital improvements; and (3) construction of capital projects at community colleges and public senior higher education institutions. VLT facilities must comply with any applicable planning and zoning laws of a local jurisdiction.

After November 15, 2008, 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. However, the General Assembly may enact laws that are not

inconsistent with the constitutional amendment and may be necessary and proper to implement the provisions of the amendment.

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, video lottery 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.

The VLT law prohibits any additional forms or expansion of commercial gaming other than as expressly provided in Subtitle 9-1A of the State Government Article. The prohibition does not apply to authorized types of gambling, including State lotteries, wagering on horse racing, and any gaming conducted under Title 12 or Title 13 of the Criminal Law Article.

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).

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 2010 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.

Exhibit 1 shows the distribution of estimated VLT revenues through fiscal 2016.

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

	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
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%) ¹	9.2	27.8	41.4	68.0	73.9	79.3
Racetrack Renewal (2.5%) ²	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
Total (100%)	132.1	396.5	590.9	971.8	1,056.4	1,132.9

¹Up to \$100 million annually.

²Up 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

State Fiscal Effect: The proposed constitutional amendment repeals Article XIX – Video Lottery Terminals of the Maryland Constitution and will repeal the restriction that 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. To the extent the General Assembly passes legislation authorizing additional forms of commercial gambling or expands VLT gambling, these gambling activities will commence earlier. Accordingly, State revenues may be accelerated to the extent the legislation imposes taxes on the activities.

Local Effect: 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.

To the extent the General Assembly expands commercial gaming, local impact aid for affected counties may be accelerated to the extent local aid is provided in the legislation.

Additional Information

Prior Introductions: None.

Cross File: SB 633 (Senators Pipkin and Brinkley) - Budget and Taxation.

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

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