



HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

FISCAL NOTE

SENATE BILL: 711

PRINTER'S NO: 1586

PRIME SPONSOR: Earll

FISCAL IMPACT SUMMARY	FY 2009/10	FY 2010/11
Expenditure Increase/(Decrease):		
General Fund	\$0	\$0
State Gaming Fund	See analysis	See analysis
Compulsive and Problem Gambling Fund	See analysis	See analysis
Pennsylvania Race Horse Development Fund	See analysis	See analysis
Local Funds	\$0	\$0
Revenue Increase/(Decrease):		
General Fund	See analysis	See analysis
State Gaming Fund	See analysis	See analysis
Compulsive and Problem Gambling Fund	See analysis	See analysis
Pennsylvania Race Horse Development Fund	See analysis	See analysis
Local Funds	See analysis	See analysis

OVERVIEW:

Senate Bill 711 amends Title 4 (Amusements) to authorize table games at licensed gaming facilities and makes reforms regarding the operation of slot machines. This bill also modifies the distributions of gross terminal revenue received from slot machines.

This bill allows Category 1 and 2 licensees who obtain a table games certificate to operate up to 250 table games, and specifies that no more than 75 of those tables may be used to play nonbanking (i.e. poker) games at any one time. Six months following the date of commencement of table games operation, the Pennsylvania Gaming Control Board (PGCB) may permit a Category 1 or 2 certificate holder to increase the number of tables. Category 3 licensees may operate up to 50 table games, where no more than 15 tables may be used for nonbanking games at any one time. The total number of slot machines allowed at a Category 3 facility would be expanded to 600 when a table games certificate is obtained. The allowable number of tables can be exceeded for temporary tournaments upon approval of the PGCB.

This bill authorizes one new Category 3 slot machine license, which would be in addition to the two currently authorized licenses. The addition of the Category 3 license would not be effective until after July 20, 2017 (and after the other two licensed facilities are operational) and is prohibited from locating within 30 linear miles of another licensed facility. This bill requires the PGCB to open the application period for the Category 3 license that has been authorized but not yet awarded.

Category 1 and 2 licensees petitioning for a table games certificate must pay a one-time fee of \$16.5 million to operate table games, if the fee is paid by June 1, 2010. If the fee is paid after June 1, 2010, the fee for Category 1 and 2 licensees is \$24.75 million. The fee is \$7.5 million for Category 3 licensees if paid by June 1, 2010. After that date, the fee is \$11.25 million for

Category 3 licensees. If the fee is not paid by June 1, 2010, the PGCB shall impose a penalty and may grant an extension up to six months. A Category 1 or 3 slot machine license that is issued after June 1, 2010 shall pay a table games certificate fee of \$16.5 million and \$7.5 million respectively (all authorized Category 2 licenses have been awarded to date).

Suppliers and manufacturers of table game equipment and devices must acquire a license. Suppliers must pay a \$25,000 fee, with a \$15,000 annual renewal fee. The manufacturer fee is \$50,000, with a \$30,000 annual renewal fee. The renewal fees also apply for slot machine supplier and manufacturer licenses, which is an increase of \$5,000. The supplier and manufacturer fees for table games are deposited in the General Fund, while slot machine supplier and manufacturer fees continue to be deposited in the State Gaming Fund.

Category 1 and 2 facilities will be required to make a minimum of 1,500 slot machines available to play, with exceptions for conversion, renovation or emergency. Category 3 facilities must maintain a minimum of 250 slot machines.

In addition to the fees collected, a state tax of 14% is imposed upon the daily gross table games revenue. This rate would be applicable for the first two years of operation for each facility, after which time the rate will decrease to 12%. This tax and any accrued interest is payable weekly to the Department of Revenue. The tax rate on fully automatic electronic gaming tables is 34%.

Table games revenue shall be deposited in the General Fund. However, if at the close of a fiscal year, the balance in the Budget Stabilization Reserve (Rainy Day) Fund exceeds \$750 million, deposits shall instead switch permanently to the Property Tax Relief Fund.

In addition to a state tax, this bill provides for a local share assessment of 2% to be distributed pursuant to §1363A. The total amount of the local share assessment is estimated to be \$14 million in 2010/11 and \$15.6 million in fiscal year 2011/12. The fiscal impact on local government funds varies and is dependent upon the provisions of §1363A.

The bill changes the distribution of local share assessments on slot machine revenues. The affected counties are Luzerne, Washington, Dauphin, Monroe, and Lebanon.

This bill changes the existing distribution of Race Horse Development Fund proceeds that were initially established in Act 71 of 2004. The bill provides for a temporary distribution from the Race Horse Development Fund to the General Fund for the next four fiscal years. It also adjusts the distribution from the fund to horsemen's organizations and the Breeding Fund. In 2013/14, the General Fund distribution will cease.

This bill provides for new misdemeanors and felonies related to gaming, and increased fines for summary offenses. It is not possible to determine how many individuals may be sentenced under this legislation; nor is it possible to predict what type of sentencing individuals may receive as a result of conviction. It is assumed that there may be a fiscal impact on both Commonwealth funds and local funds as a result of the enactment of this legislation. However, this bill provides for fines for summary violations and revenue from the collection of these fines may offset some costs related to incarceration.

The bill provides for a transfer of funds previously appropriated for local law enforcement grants to the General Fund and amends the amount of local law enforcement grants available in the future.

This bill includes a supplemental appropriation of \$2.1 million from the State Gaming Fund to the PGCB to compensate for the increased burdens placed upon the board to implement the additional requirements created by this bill.

ANALYSIS:

Fees

Because of the time needed for table games to become operational, the fees paid for a table games certificate would be the only source of revenue from this bill in the first fiscal year. This analysis assumes that 11 Category 1 or 2 license holders will pay \$16.5 million per Table Game Operation Certificate in FY2009/10, and two Category 3 license applicants will pay \$7.5 million. It is likely, though not certain, that \$196.5 million in fees will be received in the 2009/10 fiscal year. If licensees do not apply for a table games certificate before June 1, 2010, an additional fee and a penalty will be assessed.

PROJECTED GENERAL FUND REVENUE FROM TABLE GAME CERTIFICATE FEES
(\$ Millions)

	FY2009-10	FY2010-11
Table Game Certificate Fees	\$196.5	\$0

The supplier and manufacturer fees from table games would also add an unknown additional amount of revenue into the General Fund. This source is not included in the analysis.

Tax Revenue from Table Games

Although this bill would allow Category 1 and Category 2 certificate holders to operate up to 250 table games, the PGCB surveyed each operating license holder to obtain an estimate of the number of banking and non-banking tables expected to be in use at each facility. It is assumed that the average win per day for each banking table game would be \$2,500, and the average win per day for nonbanking tables (poker) would be \$660 per day.

Since it will take approximately six months for table game operations to commence, the revenue projections do not include any tax revenue in fiscal year 2009/10. It is assumed that two Category 3 licensees will commence table games operation in August 2010, and the remaining Category 3 licensee is not authorized until July 20, 2017. This estimate also assumes that the Budget Stabilization Reserve fund will not have a balance greater than \$750 million, which would subsequently cause the tax revenues to be deposited in the Property Tax Relief Fund.

PROJECTED TAX REVENUE FROM TABLE GAMES
(\$ Millions)

	FY2009-10	FY2010-11
Revenue from Table Games Tax	\$0.0	\$98.3

TOTAL PROJECTED TAX AND CERTIFICATE REVENUE FROM TABLE GAMES
(\$ Millions)

	FY2009-10	FY2010-11
Total Revenue from Table Games	\$196.5	\$98.3

Redirection from the Pennsylvania Race Horse Development Fund (PRHDF)

This bill also redirects revenue from the Race Horse Development Fund into the General Fund for FY 2009/10 through FY 2012/13. The PRHDF currently receives a variable amount based on the gross terminal revenue from Category 1 licensees, subject to a cap of 12% of gross terminal revenue. Of that amount going to the PRHDF, 34% will be transferred to the General Fund for the last six months of 2009/10, which is estimated to result in a total of \$47.2 million. The effective date for this provision is retroactive to January 1, 2010. This transfer to the General Fund in 2010/11 will be at a rate of 17% and is estimated to total \$46.7 million.

Of the remaining 83%, 4% or \$11.4 million, whichever is greater, shall be used for health and pension benefits for horseman's organizations. Of that remainder, 78% shall be set aside for purses. For thoroughbred tracks, 17% shall be put into the Breeding Fund. Standardbred tracks will split their next 17% equally, with 8.5% into the Pennsylvania Sire Stakes Fund, and 8.5% into a restricted account called the Pennsylvania Standardbred Breeders Development Fund. In 2013/14, the General Fund distribution will cease, and the prior distribution will go into effect again.

Transfer by PA Gaming Control Board

No later than 90 days after the effective date, \$12.5 million shall be transferred by the Pennsylvania Gaming Control Board to the General Fund, from amounts previously appropriated pursuant to 4 P.A.C.S §1408 (related to local law enforcement grants).

Compulsive and Problem Gambling Fund (CPGF)

The current transfer to the CPGF would be increased from \$1.5 million or 0.1% of gross terminal revenue (whichever is greater) to \$2 million or 0.2% of gross terminal revenues (whichever is greater). In addition to this, \$3 million will be transferred annually to the Department of Health. This money shall be used solely for compulsive and problem gambling as well as drug and alcohol assessment and treatment. According the Governor's Executive Budget document, transfers under the existing formula were expected to be \$2.4 million in 2009/10. The new formula would increase the transfer to \$4.8 million.

Requirements of Executive Agencies

Senate Bill 711 would require various actions on the part of many executive agencies in the Commonwealth. Unless otherwise noted, it is assumed that the effort required under this bill can be accomplished by current staff levels and within the current confines of the associated budget. The increased burden resulting from the provisions of this bill are as follows:

- The reimbursable expenses of any regulatory agencies shall be submitted on receipts for in accordance with the right-to-know law. This provision provides clarification to the manner in which expenses are submitted.
- The Department of Revenue currently transfers costs and expense from the Gaming Fund to the Department of Revenue, Pennsylvania State Police, Pennsylvania Gaming Control Board, and the Office of Attorney General. This bill also would require funds to be distributed to the Department of the Auditor General once an appropriation has been made by the General Assembly. Currently there is no appropriation for the Auditor General from the Gaming Fund.
- Office of Budget in cooperation with the Department of Community and Economic Development would be required to submit an annual report of all of the distributions of the Gaming Economic Development and Tourism Fund.

- Local reports would be required by cities and counties of the first and second class, convention centers, and sports authorities that receive money from the Gaming Economic Development and Tourism Fund shall file reports regarding use of the funds.
- The Department of Revenue shall prescribe rules, regulations, and forms for accounting and recordkeeping related to table games.
- Department of Health and the Gaming Control Board shall collaborate on implementing a strategic plan for the prevention and treatment of compulsive and problem gambling and associated behavior disorders, including drug and alcohol addictions.
- State Police, Attorney General, Auditor General, and Department of Revenue shall adopt a code of conduct to supplement current standards in relation to this bill.
- The Commissioner of the State Police shall submit a report summarizing enforcement activities at each of the licensed establishments.
- The Department of Labor and Industry, in consultation with the Department of Education, shall develop curriculum guidelines for gaming school instruction. The Department of Education has estimated that the cost associated with this requirement would be approximately \$100,000 in 2009/10.

Requirements of the Pennsylvania Gaming Control Board (PGCB)

This bill requires a significant amount of new responsibilities to be conducted by the PGCB in order to regulate the addition of table games. The Board has estimated that the additional costs associated with meeting these demands would be \$2.1 million in fiscal year 2009/10. Many of the current requirements for posting information, filing reports, and holding hearings for slot machine operation would be expanded to include information related to table games. A summary of new duties imposed upon the Board by this bill are as follows:

- Issue table game certificates, develop regulations and standards, test devices and review petitioners' plans to hold table games.
- Post information on website regarding the license owners, subsidiaries, anyone with controlling interest, trustees, officers, directors, and key employees.
- Collect fines and fees associated with manufacturers, suppliers, and table game certificate holders.
- Report gross table game revenue.
- Report itemized expenses of the Board on the website on a monthly basis.
- Develop standards for gaming service providers.
- Appoint a trustee to act on behalf of the commonwealth if license requirements are breached.
- Adopt regulations necessary to ensure that the Bureau of Investigations and Enforcement is a distinct entity to prevent commingling of the investigatory and prosecutorial functions of the bureau.
- Develop regulations on post employment restrictions.
- Hold public hearings.
- Maintain a list of suspicious transactions.
- Prescribe procedures for and oversee junkets.

The following sources were consulted in the preparation of this fiscal note:

- Pennsylvania Gaming Control Board
- Office of the Budget
- Pennsylvania State Police
- Department of Education

- Department of Agriculture
- Department of Revenue
- Attorney General

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General Note and Disclaimer: *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*