



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 2150

PRINTERS NO. 3607

PRIME SPONSOR: Dunbar

### REVENUE INCREASE / (DECREASE)

FUND	FY 2015/16	FY 2016/17
General Fund	\$0	See Fiscal Analysis
State Racing Fund	\$0	See Fiscal Analysis
State Gaming Fund	\$0	See Fiscal Analysis
PSERS Contribution Fund	\$0	\$303,000,000

**SUMMARY:** House Bill 2150, Printer's Number 3607, amends Title 4 (Amusements) providing for fantasy contests, interactive gaming, slot machines at nonprimary locations, sports wagering, slot machines in qualified airports, casino simulcasting at Category 2 and Category 3 facilities, the operation of multistate wide-area progressive slot machines, hybrid slot machines and skill slot machines. The legislation further provides for definitions; powers and duties of the Pennsylvania Gaming Control Board (Board) and the Department of Revenue (DOR); license applications, appeals, renewals and fees; testing and certification; authorization and conduct of tournaments; local share assessment; nongaming service provider; special funds of the Commonwealth; establishing the Public School Employees' Retirement Contribution Fund; compulsive and problem gambling; child endangerment protection; investigation and enforcement; appropriations; prohibited acts and penalties; other miscellaneous, technical and editorial changes; and making related repeals.

**ANALYSIS:** HB2150, PN3607, makes various changes to Title 4 (Amusements) expanding and enhancing the gaming industry in the Commonwealth. More specific details on the changes included in the legislation are as follows:

#### Fantasy Contests - (Chapter 3)

Fantasy contest license applications shall be submitted to the board for a person to provide online fantasy or simulated games or contests with an entry fee and a prize or award offered to winning participants. No winning or outcome shall be based on the score, point spread or performance of a single actual team or combination of teams or solely on a single performance of an individual athlete or player in a single actual event. A nonrefundable application fee shall be paid which may not exceed the amount necessary to reimburse the board for all costs incurred in the application process or exceed an amount equal to 5% of the applicant's fantasy contest adjusted revenues for the previous calendar year if the applicant is not a licensed gaming entity.

Within 30 days of the issuance of a fantasy contest license by the board, the applicant shall pay a license fee which shall be deposited into the General Fund. The license fee shall be \$50,000 or an amount equivalent to 7.5% of the applicant's fantasy contest adjusted revenues for the previous calendar year, whichever is less, except that an applicant who is also a licensed gaming entity shall pay \$50,000. Licenses shall be renewed every 5-years. Within 30 days of the board renewing a license, the licensee shall pay a renewal fee of \$5,000 which shall be deposited into the General Fund.

Each fantasy contest licensee shall file a quarterly report with the department and pay a tax equal to 5% of its fantasy contest adjusted revenue for the quarter. All taxes owed shall be held in trust for the Commonwealth until paid to the department. Taxes paid to the department shall be deposited into the General Fund.

The department shall assess each licensed operator a percentage of its fantasy operator's contest adjusted revenues which shall be used to recover costs or expenses incurred by the board and the department in carrying out the duties and responsibilities under this chapter as well as repay the loans made by the General Fund to begin implementing the chapter.

It is estimated that the authorization and implementation of fantasy contests in Pennsylvania will generate \$700,000 in tax revenues annually. The Fantasy Sports Report published by the board in May 2016 indicated that the arena of fantasy sports is rapidly expanding and estimates that more than \$3 billion in entry fees from approximately 4.5 million plyers were paid in 2015 alone which generated revenue of \$300 million for the industry after the payout of winnings. Historically, Pennsylvania's population represents 4% of the United States population. Using this as a proxy, it is estimated that a fantasy contest tax of 5% would generate \$700,000 annually for the General Fund.

### Category 3 Licenses

This legislation removes the amenity requirement on Category 3 licensees. Category 3 licensees in existence as of January 1, 2016 are required to remit a one-time nonrefundable fee of \$1 million. A category 3 license issued after January 1, 2016 shall be required to remit a one-time nonrefundable fee of \$8.5 million. A one-time fee of \$2.5 million is required for a Category 3 licensee to add up to 250 slot machines and a fee of \$1 million to add up to 15 nonbanking table games.

This provision will generate an additional \$9 million in 2016-17 assuming the 2 currently operating Category 3 facilities apply for additional slot machines and table games. The addition of a 3rd Category 3 facility is expected to occur in 2017-18. These license fees are deposited into the General Fund

### Interactive Gaming (Chapter 13B)

Slot machine licensees are authorized to conduct interactive gaming. There is a one-time nonrefundable fee of \$8 million for conducting interactive gaming with a renewal fee of \$250,000 every 5-years. Licensees may contract with an interactive gaming operator. There is a one-time nonrefundable fee of \$2 million for each operator with a renewal fee of \$100,000 every

5-years. An operator may also conduct interactive gaming at a qualified airport for a one-time nonrefundable fee of \$1 million and renewal fee of \$100,000 every 5-years.

The tax rate on interactive gaming is 14% of the daily gross interactive gaming revenue. Wagers placed with out-of-state interactive gaming operators authorized under a reciprocal agreement shall pay the tax governed by the agreement but such tax shall not exceed 16%. Additionally, a 2% local share assessment is applied to the daily gross interactive gaming revenue. The greater of \$2 million or 0.2% of gross interactive revenue shall be allocated to the Compulsive and Problem Gambling Treatment Fund. Similarly, the greater of \$2 million or 0.2% of gross interactive revenue shall be allocated for Drug and Alcohol programs.

The authorization of interactive gaming will result in \$96 million in license fees in 2016-17 assuming all current slots licensees conduct interactive gaming. Furthermore, assuming each licensee contracts with one operator will result in \$24 million in operator license fees in 2016-17. Finally, there are 6 qualified airports in the Commonwealth in which interactive gaming will be authorized. If an operator chooses to conduct interactive gaming in each of the six airports it would generate \$6 million in license fees in 2016-17. It is estimated that a full year of collections of the tax on interactive gaming would generate \$42 million; however, it will take up to a year to fully implement interactive gaming in Pennsylvania.

#### Slot Machines at Nonprimary Locations (Chapter 13D)

Each Category 1 licensee may make slot machines available at up to 4 nonprimary locations. Each nonprimary location may have up to 250 slot machines. There is a one-time nonrefundable fee of \$5 million for each nonprimary location. The tax rate on slot machines at nonprimary locations is set at 54%, with 92% of the revenues being deposited into the General Fund and 8% being split as a local share assessment to the county (4%) and municipality (4%).

Assuming all 6 Category 1 licensees fully implement slot machines at up to 4 nonprimary locations will result in a total of \$120 million in license fees in 2016-17. It is estimated that \$160 million in tax revenue will be received in a fiscal year when fully implemented.

#### Slot Machines at Qualified Airports (Chapter 13E)

Slot machine licensees may place slot machines at a qualified airport for a one-time nonrefundable fee. For an airport located in a City of the First Class the fee is \$5.0 million. The fee for an airport located in a County of the Second Class is \$2.5 million. The fee to locate slot machines at all other qualified airports is \$1 million. The tax rate is 34% of the airport gaming revenue. The local share assessment is 20% of the airport gaming revenue.

Assuming slot machines are located at all 6 qualified airports will generate a total of \$11.5 million in license fees. It is estimated that the tax on slot machines at qualified airports would generate \$15 million on an annual basis; however, it may take up to a year to fully implement.

#### Casino Simulcasting (Chapter 13F)

This legislation authorizes category 2 and category 3 licensed facilities to conduct casino simulcasting or enter into an agreement or agreements with a licensed racing entity or other

person for the conduct of casino simulcasting. Casino simulcasting permits shall not be subject to the payment of an authorization fee, renewal fee or the payment of an additional permit fee. A tax equal to 2% of the amount wagered shall be paid by the licensed entity and shall be deposited into the State Racing Fund.

Sports Wagering (Chapter 13G)

The board is given the authority to establish standards and procedures to govern sports wagering in the Commonwealth in the event that sports wagering is authorized under Federal law. The Secretary of the Commonwealth shall publish notice in the Pennsylvania Bulletin certifying the enactment or filing of a court decision that affirms the authority of a state to regulate sports wagering.

**FISCAL IMPACT:** All licenses, fees and taxes established in the legislation are deposited into the General fund unless otherwise noted in the analysis above. It is estimated that this legislation will generate a total of \$266.5 million in additional revenues from the payment of licenses and fees and collections of tax revenues in 2016-17. The receipt of the additional tax revenues in the General Fund from the expanded and enhanced gaming provisions in this legislation depends on the ability of the board to approve licenses authorizing the entities and the ability of the entities to begin providing the expanded and enhanced gaming options to customers. It is believed that the General Fund will begin to see a portion of this tax revenue in 2016-17. Full implementation of the expanded and enhanced gaming is anticipated to occur in 2017-18 and generate \$217.0 million in tax revenues.

In the event that casino simulcasting is offered, the State Racing Fund will receive additional funds from the 2% tax levied on the amount wagered on casino simulcasting at category 2 and category 3 licensed venues.

The Public School Employees' Retirement Contribution Fund is established. A total of \$303 million from the revenues and license fees collected from table games, interactive gaming, slot machines at nonprimary locations and slot machines at airports is transferred to this fund from the General Fund in 2016-17. In 2017-18 and thereafter, a total of \$310 million of revenues from the above named sources is transferred from the General Fund to this fund.

The sum of \$1.25 million shall be appropriated to the board and the sum of \$500,000 shall be appropriated to the department from the General Fund for fiscal year 2016-17 to implement the provisions of fantasy contests. The amount shall be repaid to the General Fund no later than 10 years from the date the board issues the first fantasy contest license.

The legislation appropriates \$5 million from the State Gaming Fund to the Gaming Control Board for the implementation of the act.

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**DATE:** June 28, 2016

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*