

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

BILL NO. House Bill 271

PRINTER NO. 1821

AMOUNT

See Fiscal Impact Section

FUND

General Fund
State Gaming Fund
State Lottery Fund
Compulsive and Problem Gambling
Treatment Fund
PA Gaming Economic Development
and Tourism Fund

DATE INTRODUCED

January 31, 2017

PRIME SPONSOR

Representative Ortitay

DESCRIPTION AND PURPOSE OF BILL

House Bill 271, as amended, makes omnibus amendments to Title 4 (Amusements) as follows:

Annual Slot Machine License Operation Fee

House Bill 271, as amended, imposes an annual slot machine license operation fee on all Category 1 and Category 2 licensed gaming entities in the amount of 20% of the entity's slot machine license fee paid at issuance (\$50,000,000). The fee will generate \$10 million annually per licensed entity. Fees collected are to be deposited in the State Gaming Fund, to be used for the purposes set forth in section 1403(c)(3) with regard to distributions to municipalities.

The legislation amends portions of the county local share assessment ("LSA") distribution for table games (section 13A63) with regard to a Category 2 licensed facility located in two counties of the third class to provide that certain funds flow through the Commonwealth Financing Authority ("CFA"), and it amends various portions of the distributions to municipalities for slot machines under Section 1403(c)(2).

Interactive Gaming

Slot machine licensees, or other entities in certain instances, are authorized to conduct interactive gaming ("iGaming"). There is a one-time nonrefundable fee of \$5 million for an interactive gaming certificate authorizing peer-to-peer interactive games and a \$5 million fee for an iGaming certificate authorizing games which are not peer-to-peer interactive games. A \$10 million fee is payable for an iGaming certificate authorizing both classifications of interactive games. A renewal fee of \$250,000 is payable every five years. All fees shall be deposited in the General Fund.

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A "peer-to-peer interactive game" is an interactive game which is nonbanking, such as online poker, in which a player competes against one or more other players and in which the interactive gaming certificate holder collects a rake. Interactive games that are not peer-to-peer would include games such as simulated slot machines, black jack or roulette.

Each slot machine licensee (including future licensees) shall have an exclusive 90-day period to petition the board for an interactive gaming certificate to conduct peer-to-peer interactive games, interactive games that are not peer-to-peer, or both. If any slot machine licensee does not file a petition to conduct one or both classifications of iGaming during the exclusive 90-day period, the board may accept petitions from other entities for that iGaming certificate. If a slot machine licensee does not apply for an iGaming certificate during the 90-day period, the licensee and its affiliates shall not be eligible to apply for a certificate for two years.

The total number of iGaming certificates issued in each classification shall be equal to the number of slot machine licenses issued by the board.

The tax rate on interactive gaming is 16% of the daily gross interactive gaming revenue received from peer-to-peer play (e.g. poker) and 54% of the daily gross interactive gaming revenue received from non-peer-to-peer play (e.g. simulated slots). The tax is payable on a weekly basis for deposit in the General Fund.

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%.

The greater of \$2 million or 0.2% of gross interactive gaming revenue shall be allocated to the Compulsive and Problem Gambling Treatment Fund. Similarly, the greater of \$2 million or 0.2% of gross interactive gaming revenue shall be allocated for Drug and Alcohol programs.

The legislation provides for strict requirements for the conduct of interactive gaming with regard to procedures such as situs of operations, establishment of iGaming accounts, age restrictions (i.e. 21 years of age), passwords, grounds for rejection, suspension of iGaming accounts, deposits and payments, and log-in procedures. Furthermore, House Bill 271 enumerates the responsibilities of iGaming certificate holders and operators, mandates internal administrative and accounting controls, regulates facilities and equipment, and requires testing and certification.

House Bill 271, as amended, includes prohibitions on financial interests related to interactive gaming for executive-level public employees, public officials, party officers or immediate family members thereof.

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iLottery

The legislation authorizes the Department of Revenue to operate iLottery and Internet instant games. "iLottery" is a digital system that provides for the distribution of lottery products through numerous channels such as web applications, mobile applications, mobile web, tablets and social media platforms that allow players to interface through a portal for the purpose of obtaining lottery products and services.

Lottery products include plays, shares or chances offered by the Pennsylvania Lottery such as instant tickets, terminal-based tickets, raffle games, Internet instant tickets, iLottery games, play-for-fun games, lottery vouchers, subscription services and gift cards. Games that simulate casino-style lottery games such as poker, roulette, slot machines or blackjack are excluded.

An Internet instant game is a lottery game of chance in which, by the use of a computer, tablet computer or other mobile device, a player purchases a lottery play that reveals numbers, letters or symbols indicating whether a lottery prize has been won.

All revenues derived from iLottery sales shall be deposited into the State Lottery Fund. iLottery revenues shall not be subject to the profit margin limitations contained in the State Lottery Law. The legislation provides for temporary regulatory authority and an expedited procurement process to speed up and ease implementation. House Bill 271 also provides that individual players' accounts and information are not subject to public disclosure.

Category 3 Slot Machine License Changes

House Bill 271, as amended, removes the existing Category 3 amenity requirements if the holder of a Category 3 license pays a one-time fee of \$1 million to the department for deposit in the General Fund.

Multi-Use Computing Devices at Qualified Airports

An interactive gaming certificate holder may provide for the conduct of iGaming at a qualified airport through the use of multi-use computing devices or enter into an agreement with an iGaming operator that provides for the conduct of iGaming on behalf of the iGaming certificate holder. A multi-use computing device includes the following:

- A tablet computer that allows a player to access an authorized interactive game or authorized airport game.
- Is located and accessible to eligible passengers only in an airport gaming area.
- Communicates with a server that is in a location approved by the board.
- Is approved by the board.

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- Has the capability of being linked to and monitored by the department's central control computer system.
- Offers a player additional functions that include Internet browsing, the capability of checking flight status and ordering food or beverages.

The qualified airports are located in the following areas: Philadelphia; Pittsburgh; Harrisburg; Lehigh Valley; Wilkes-Barre/Scranton; Erie; Latrobe; and State College.

An iGaming certificate holder shall pay a one-time, nonrefundable fee according to the following schedule:

- \$5 million for an airport located in a city of the first class.
- \$2.5 million for an airport located in a county of the second class.
- \$1 million for international airports other than those located in a city of the first class or county of the second class.
- \$250,000 at commercial service airports that are not designated as international airports.

The tax rate is 34% of the daily gross interactive gaming revenue generated from multi-use computing devices at the qualified airport. The tax is payable to the department on a weekly basis for deposit in the General Fund. This tax is in lieu of the iGaming tax imposed in section 13C52.

Supplemental PA GEDTF Assessment

Beginning July 1, 2017, each licensed gaming entity shall pay a daily assessment of 0.5% of its gross terminal revenue to the newly established Casino Marketing and Capital Development Account within the Pennsylvania Gaming Economic Development and Tourism Fund. The assessment shall continue until each Category 1 and Category 2 slot machine licensee's gross terminal revenue for the previous fiscal year exceeds \$200 million or until ten years after the supplemental assessment takes effect, whichever occurs first.

Beginning July 1, 2017, additional funding would come from an annual redirection of the Local Law Enforcement Grant allocation of \$2 million from the State Gaming Fund to the Casino Marketing and Capital Development Account. Any money not committed for local law enforcement grants as of the effective date shall be transferred to the account.

All money in the Casino Marketing and Capital Development Account shall be distributed as grants to be used by the slot machine licensee for marketing or capital development and paid by the Department of Community and Economic Development ("DCED") as directed by the board according to the following procedures:

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- Each slot machine licensee may apply to the board for a grant.
- Each Category 1 or Category 2 slot machine licensee whose gross terminal revenue for the fiscal year ending June 30, 2016 was not more than \$150 million shall receive grants of \$5 million annually.
- Each Category 1 or Category 2 slot machine licensee whose gross terminal revenue for the fiscal year ending June 30, 2016 was more than \$150 million but less than \$200 million shall receive grants of \$3 million annually.
- If insufficient money is available to make the priority distributions, the distributions shall be made in the proportion of the licensees eligible for priority distribution to the total amount of money in the account.
- Any remaining money in the account after initial distribution shall be distributed by the board to other licensees who have applied for grants.
- Individual licensee grants shall not exceed \$5 million annually.

Fantasy Contests

The legislation permits online fantasy or simulated games or contests with an entry fee and a prize or award offered to winning participants. The bill provides for a nonrefundable application fee, which shall be determined by the Pennsylvania Gaming Control Board ("board"), to reimburse the board for all costs incurred in the application process. House Bill 271 requires a separate license fee of \$50,000 or 7.5% of the fantasy contest adjusted revenues from previous year, whichever is less. An applicant who is also a licensed gaming entity (i.e. casino) shall pay a license fee of \$50,000. The minimum amount of the license fee shall be \$5,000. A fantasy contest license shall be valid for a period of five years, subject to a renewal fee of \$5,000 or 7.5% of the fantasy contest adjusted revenues, whichever is less.

A 12% tax is imposed on the fantasy contest adjusted revenues, which is to be paid quarterly and deposited into the General Fund. In addition, fantasy contest operators shall pay an assessment on adjusted revenues to cover the costs of the board and Department of Revenue ("department") and to repay any loans made by the General Fund to the board or the department.

\$1.25 million is appropriated to the board, and \$500,000 is appropriated to the department for fiscal year 2017-18 for the purpose of implementing and administering fantasy contests. The appropriations are considered loans from the General Fund and shall be repaid no later than 10 years through assessments on licensed operators.

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Compulsive and Problem Gambling Program Changes

The legislation places the operation of the state's compulsive and problem gambling program under the Department of Drug and Alcohol Programs ("DDAP"). The program has been operated by DDAP since FY 2012-13, and this bill updates the statute to reflect this. The legislation also requires DDAP to maintain, and all casinos to utilize, 1-800-GAMBLER as the toll-free number to direct patrons to problem gambling services. A casino not currently using 1-800-GAMBLER may continue to use another number for up to three years upon showing good cause to DDAP. If DDAP determines it is unable to adopt 1-800-GAMBLER, then another toll-free number must be maintained.

House Bill 271, as amended, requires compulsive and problem gambling information to be prominently and continuously displayed to a person visiting or logged onto an iGaming website. Subject to fines for noncompliance, iGaming certificate holders and operators shall provide a mechanism by which an iGaming account holder can limit the amount of money lost during a certain period of time, limit the maximum amount of a single wager on an interactive game, or temporarily suspend the account.

Other Provisions

The legislation authorizes the use of prepaid access instruments for the purpose of playing slot machines or table games. The bill provides for notification by slot machine licensees that contract with nongaming service providers.

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FISCAL IMPACT:

Enactment of this legislation will have the following fiscal impact on Commonwealth funds. The total fiscal impact to the General Fund for fiscal year 2017-18 is estimated to be between \$109.6 million and \$146.6 million.

| Revenue Source or Cost | Fund | FY 2017-18 Amount |
|--|--|----------------------------------|
| Appropriations | State Gaming Fund | (\$5,000,000) |
| Transfer of Local Law Enforcement Grants | State Gaming Fund | (\$2,000,000) |
| Annual Slot Machine License Operation Fee (Category 1 and 2) | State Gaming Fund | \$100,000,000 |
| Appropriations/Loans | General Fund | (\$1,750,000) |
| iGaming Certificate Fees | General Fund | \$90,000,000 to \$120,000,000 |
| iGaming Tax Revenue (6 mos.) | General Fund | \$12,700,000 |
| Category 3 Amenities Buyout | General Fund | \$2,000,000 |
| Multi-use Devices at Airports Fees | General Fund | \$5,000,000 to \$12,000,000 |
| Multi-use Device iGaming Tax Revenue | General Fund | Unknown |
| Fantasy Contest License Fees | General Fund | \$100,000 |
| Fantasy Contest Tax Revenue (6 mos.) | General Fund | \$1,550,000 |
| iLottery Profit (9 mos.) | State Lottery Fund | \$18,900,000 |
| iGaming Tax Revenue (6 mos.) | Comp. & Problem Gambling Treatment | \$4,000,000 |
| Supplemental GEDTF Assessment | Casino Marketing & Capital Development Account | \$16,200,000 |

Appropriations and Loans

House Bill 271, as amended, appropriates \$1.25 million to the board and \$500,000 to the department in 2017-18 from the General Fund in order to implement and administer new Chapter 3 relating to fantasy contests. This appropriation is a loan and shall be repaid to the General Fund no later than 10 years from the issuance of the first license.

\$5 million is appropriated from the State Gaming Fund to the board for implementation of the act as a supplemental appropriation for fiscal year 2016-17.

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Annual Slot Machine License Operation Fee

The annual slot machine license operation fee will generate \$10 million from each of the ten existing Category 1 and Category 2 licensed gaming entities, including those located in Philadelphia, for a total of \$100 million in FY 2017-18.

Fees collected are deposited in the State Gaming Fund, to be used for the purposes set forth in section 1403(c)(3) with regard to distributions to municipalities.

The local share assessment for Category 3 licensees were unaffected by the recent court decision and the existing procedures are maintained.

Interactive Gaming

The authorization of interactive gaming is expected to generate between \$90 million and \$120 million in fees for deposit in the General Fund in fiscal year 2017-18. This analysis assumes that current slot machine licensees opt to apply for between 75% and 100% of certificates for both classifications of interactive gaming.

The legislation provides that if a slot machine licensee does not apply for an interactive gaming certificate within 90 days, the certificate will be made available for application by other entities. Furthermore, if a slot machine licensee does not apply for an iGaming certificate during the 90-day period, the licensee and its affiliates shall not be eligible to apply for a certificate for two years. These provisions act as incentives to help maximize the fees received in FY 2017-18.

Assuming that interactive gaming is operational for six months during fiscal year 2017-18, it is estimated that the tax on iGaming would generate \$16.7 million. The projection is based upon historical iGaming results in New Jersey, adjusted for differences in tax rates, population and propensity to gamble.

Of the \$16.7 million tax revenue generated, the greater of \$2 million or 0.2% of gross interactive gaming revenue shall be allocated to the Compulsive and Problem Gambling Treatment Fund. Similarly, the greater of \$2 million or 0.2% of gross interactive gaming revenue shall be allocated for Drug and Alcohol programs.

House Bill 271, as amended, requires the Department of Revenue to determine an appropriate assessment amount for each iGaming certificate holder to recover costs or expenses incurred by the board and the department in carrying out their powers and duties. The board and department are required to annually submit an itemized budget, and money from the assessment accounts shall only be dispersed upon appropriation by the General Assembly.

iLottery

The Pennsylvania Lottery through the Department of Revenue projects that, based upon an October 1, 2017 start date, year one iLottery sales would be \$86.3 million, which would generate \$18.9 million in net profit for the State Lottery Fund.

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Category 3 Slot Machine License Amenities Buyout

This provision will generate \$2 million in 2017-18 assuming the two currently operating Category 3 facilities opt for the amenities buy-out.

Multi-Use Computing Devices at Qualified Airports

The legislation is projected to generate between \$5 million and \$12 million in fee revenues during fiscal year 2017-18. If one iGaming certificate holder pays the fee to operate multi-use computing devices at an airport located in a city of the first class, iGaming at airports will generate \$5 million in fiscal year 2017-18. To the extent that fees are paid to operate iGaming at additional qualified airports, this provision could generate up to \$12 million.

The amount of revenue generated from the 34% tax imposed on iGaming through multi-use computing devices at airports is unknown at this time. However, the amount of revenue generated at airports is likely to be some fraction of the amount generated from interactive gaming conducted statewide.

Supplemental PA GEDTF Assessment

Beginning July 1, 2017, each licensed gaming entity shall pay a daily assessment of 0.5% of its gross terminal revenue (i.e. slots revenue) to the newly established Casino Marketing and Capital Development Account within the Pennsylvania Gaming Economic Development and Tourism Fund.

Total gross terminal revenue generated during fiscal year 2017-18 is projected to be approximately \$2.4 billion. The one-half of one percent assessment would generate \$12 million to be deposited in the Casino Marketing and Capital Development Account to be distributed as grants by DCED.

Beginning July 1, 2017, additional funding would come from an annual redirection of the Local Law Enforcement Grant allocation of \$2 million from the State Gaming Fund to the Casino Marketing and Capital Development Account. In addition to the \$2 million annually, approximately \$2,200,000 of existing funds that have not been previously committed will be transferred to the account.

The total of all funds placed into the Casino Marketing and Capital Development Account during FY 2017-18 is estimated at \$16.2 million, decreasing to approximately \$14 million in each year thereafter.

Fantasy Contests

The Department of Revenue prepared a fiscal analysis for Senate Bill 1324, P.N. 2001 of the 2015-16 Regular Session. The analysis assumes that two licenses will be approved in the first year of enactment, and so two \$50,000 license fees will generate \$100,000 in FY 2017-18.

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The Department of Revenue projects that a 12% fantasy contest tax rate will generate \$3.1 million in full fiscal year 2017-18 and \$5.2 million in FY 2018-19. The FY 2017-18 amount equates to approximately \$260,000 in tax revenue per month. The tax revenue generated in FY 2017-18 will depend upon when the licenses are approved and how quickly the fantasy contest operators will be in operation.

The legislation requires the Department of Revenue to determine an appropriate assessment amount for each fantasy contest licensed operator to recover costs or expenses incurred by the board and the department in carrying out their powers and duties and to repay loans made from the General Fund to the board. The board and department are required to annually submit an itemized budget, and money from the assessment accounts shall only be dispersed upon appropriation by the General Assembly.