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Office of Research
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S.B. 176
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 176's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Sens. Antani and Manning

Local Impact Statement Procedure Required: No

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Highlights

- The bill legalizes and regulates sports gaming in Ohio through two channels: (1) a sports gaming lottery operated by the State Lottery Commission (LOT), and (2) sports gaming agents (SGAs) licensed and regulated by the Ohio Casino Control Commission (CAC) to offer sports gaming online and at sports gaming facilities. The bill specifies that the operation of sports gaming must begin no earlier than January 1, 2022. The bill imposes a 10% tax on the sports gaming receipts (SGR) of SGAs. SGR is defined as sports wagering receipts minus paid winnings and voided wagers.
- Legalizing and taxing sports gaming would raise several tens of millions of dollars per year, once the program is fully operational and sports wagering markets mature.
- The bill creates the Sports Gaming Revenue Fund (SGRF), Sports Gaming Tax Administration Fund (SGTAF), Sports Gaming Profits Education Fund (SGPEF), and Problem Sports Gaming Fund (PSGF) in the state treasury. Revenue from the tax on sports wagering through SGAs and from certain fees is to be deposited into the SGRF. After transfers for refunds and to the SGRAF to cover costs for the Department of Taxation, 98% of the revenue is to be transferred to the SGPEF, and the remaining 2% to the PSGF.
- Revenue from the sports lottery operated by LOT is to be deposited into the existing Lottery Profits Education Fund (LPEF).
- Funding for school districts across the state would increase by several tens of millions of dollars annually, via the SGPEF and the LPEF, once both gaming programs are fully operational.
- GRF revenue from the commercial activity tax (CAT) may increase by up to \$1 million annually once gaming via SGAs is fully operational.

- The bill also allows charitable organizations to conduct electronic instant bingo and makes other changes to charitable gaming law. The work, costs, and revenue generated for the Attorney General’s bingo regulation operations will increase as a result of those changes. It is likely that the annual revenue gain will pay for the increase in annual operating expenses.
- The bill prohibits the use of promotional gaming credits provided to casino patrons in the calculation of the gross casino revenue for purposes of the casino tax. This provision is likely to have no direct fiscal effect on casino tax receipts if gaming credits are eliminated by casinos. However, to the extent it would indirectly result in decreases in wagers and casino tax taxable base, the revenue impact of this provision would be negative.
- The bill creates the nine-member Select Committee on iLottery, to study internet and mobile-based lottery games. The committee is required to issue a report of its findings to the General Assembly by January 1, 2022, after which the committee is abolished.

Detailed Analysis

S.B. 176 makes numerous changes to Ohio’s gambling laws. First, the bill legalizes sports wagering in Ohio for those age 21 or over, imposes license fees on industry participants, and levies a tax on sports gaming receipts (SGR). Second, the bill requires the Ohio Lottery Commission (LOT) to operate a sports betting lottery, and specifies the general characteristics of the game. Third, the bill modifies the way casino revenues are taxed. Fourth, the bill changes various aspects of charitable gaming law. Finally, the bill creates a legislative committee to study internet lottery games. In the sections that follow, bill provisions with notable fiscal effects are addressed in the order presented above, and their fiscal impact is discussed. Details of provisions of S.B. 176 can be found in the LSC bill analysis.

Sports wagering through CAC

The bill legalizes sports wagering through licensed retail and mobile sports gaming agents (SGAs) and places regulatory oversight of sports gaming activities under the Ohio Casino Control Commission (CAC). The bill requires CAC to license SGAs to offer sports gaming under type A licenses through online sports pools and under type B licenses at sports gaming facilities. The bill specifies that CAC cannot offer more than 20 licenses of either type. Permitted sporting events for betting include any professional or collegiate sport or athletic event, any Olympic or international sports event, any motor race event, or any other special event CAC authorizes. The bill prohibits betting on any sports or athletic event for primary or secondary school students that is conducted or sponsored by the school or any other person. The Commission is to establish rules, regulations, fees, and penalties for its agents to enforce, and provides overall oversight of the industry. The bill specifies several types of rules CAC must adopt governing sports gaming agents and equipment, and lists several requirements related to the operations of a sports gaming agent.

The bill creates the Sports Gaming Revenue Fund (SGRF) in the state treasury and requires that revenue from the tax imposed on sports gaming receipts (SGR), initial SGA licensing fees, and certain fines collected by CAC be deposited in the fund. The bill also creates the Sports Gaming Tax Administration Fund, which the Tax Commissioner would use to defray the costs incurred in administering the sports wagering tax, the Sports Gaming Profits Education Fund, and the Problem Sports Gaming Fund.

The bill requires that 98% of the money in the SGRF, after deductions for tax refunds and administrative costs, be transferred to the Sports Gaming Profits Education Fund, to be used to support K-12 education, and 2% be transferred to the Problem Sports Gaming Fund to pay the costs of services to alleviate problem sports gaming in Ohio.

Sports gaming receipts tax and license fees

The bill imposes a 10% tax on SGR, defined as the total amount of wagers taken in by SGAs minus winnings and voided wagers. The bill allows a sports gaming agent to provide promotional gaming to patrons. Though the bill allows the use of promotional gaming credits by sports gaming agents, SGR is not reduced by promotional gaming credits given to patrons in the calculation of the tax. The bill applies the same tax rate to mobile and in-person wagering. The bill specifies that the sports gaming tax be administered in the same way as the state's existing casino tax.

The bill requires businesses who wish to offer sports gaming products to consumers to obtain a sports gaming agent license from CAC.¹ The initial license fee is codified in the bill and set to \$1 million, with the revenue deposited into the SGRF; licenses are valid for three years, after which businesses must reapply and pay a license fee to be set by CAC.² Casinos and racinos are prevented from offering sports betting from their existing facilities under the bill. The bill specifies that SGAs must pay the commercial activity tax (CAT) only on their net receipts from sports gaming, not on gross receipts.

Fiscal impact

LBO anticipates that revenue during FY 2022, if any, would be mostly derived from SGA license fees. This revenue will total in the millions of dollars, to be deposited in the SGRF, depending on the number of applications and decisions of CAC.

Wagering occurring on mobile equipment and at physical locations will provide several millions of dollars to be deposited in various funds as specified in the bill. LBO estimates the sport gaming market to be just under \$3.25 billion, after several years of operation. However, depending on the development of the program by CAC and the distribution of licenses to SGAs, wagering in the earlier years is likely to be less than the total above.

At the outset of legal sports wagering in Ohio, LBO assumes a market of about \$2.7 billion in FY 2023 and \$3.0 billion in FY 2024. The corresponding SGR tax base might be about \$177 million and \$230 million, respectively. At the tax rate of 10%, such tax bases would yield about \$17 million and \$23 million, in those respective years to the SGRF. Of this total, 98% or \$16.7 million and \$22.5 million, respectively, would be deposited in the Sports Gaming Profits Education Fund. The Problem Sports Gaming Fund would receive roughly \$200,000 to \$300,000 of the sports gaming tax revenues. Please note that LBO does not rule out that actual revenue to

¹ Suppliers of sports gaming equipment must apply for and obtain a sports gaming supplier license from CAC; workers in the sports gaming industry are required to obtain a sports gaming occupational license.

² Though initial SGA license fee payments are to be deposited in the SGRF, renewal license fee payments are transferred to the Casino Control Commission Fund.

the SGRF in those years could exceed projected revenue by a wide margin, if the market expands rapidly.

The projections above assume sports gaming regulated by CAC is only minimally affected by Ohio's sports betting lottery. LBO's estimates are based on other states' revenue experiences and various market research reports on the industry. The initial estimates were adjusted for state-level differences in gambling-age population, tax rates, gambling propensity, and Ohio-specific regulatory factors. In calculating tax revenues, LBO has assumed SGAs will take in a profit margin of 7.5%. Please note there are a number of factors at play that could affect the rate of growth in the industry in Ohio, and because the bill's regulatory and market structure does not allow a simple comparison with other states, the potential exists that the above estimates are off by several million dollars. (For more information on sports gaming tax revenue in other states, please refer to the "**Appendix**" on the last page of this fiscal note.)

S.B. 176 is expected to increase CAT revenue by an undetermined amount, likely between \$500,000 and \$1 million per year, when the sports gaming market fully matures. Most CAT revenue is deposited in the GRF.³

Sports gaming through LOT

Under the bill, LOT is required to operate a sports gaming lottery, which must be in the form of a sports pool. Sports pool lottery tickets cost \$20 for each ticket under the bill, giving participants the opportunity to select an outcome for a sporting event or series of sporting events. LOT must retain a fixed fee per ticket in an amount determined by the Commission. LOT is required to adopt, with the consent of CAC, rules governing the sports lottery as necessary to implement the provisions of the bill. Generally, the bill treats the sports gaming lottery in most respects as part of other games offered by LOT, so the Commission may contract with vendors to operate the sports gaming lottery and determine the conditions under which lottery sales agents may offer sports gaming to patrons.

Net profits from the operation of the sports gaming lottery are required to be transferred to the LPEF (Fund 7017), similarly to net profits from existing lottery games under codified law (in FY 2020, profits transfers totaled \$1,127.1 million to Fund 7017). Revenues from this program may potentially exceed \$10 million per year. However, the magnitude of the revenue gain from the bill is uncertain, as both the timing and the yield of a sports betting lottery would be dependent on actions by the Lottery Commission and the types of sporting events included in this program. Currently, no state offers a sports lottery with provisions such as included in the bill.⁴

³ Of all CAT revenue, 13% is remitted to the School District Tangible Personal Property Replacement Fund, and 2% is remitted to the Local Government Tangible Property Tax Replacement Fund.

⁴ One program that could be close to that of the bill is that of Delaware. The Delaware State Lottery operates a sports lottery, "Sports Pick," which allows participants to purchase ticket bets on National Football League (NFL) and limited college football outcomes. Tickets are available through lottery retailers, including restaurants, bars, and night clubs. In 2019, a total of \$29.8 million was wagered, resulting in net proceeds to the Lottery of nearly \$7.1 million.

Committee to study internet and mobile-based lottery games

The bill creates the Select Committee on iLottery for the purposes of studying the effects of online lottery ticket sales on retail lottery ticket sales. The committee is to be composed of the following nine members who serve without compensation: three members of the Senate, three members of the House, and three members of the public. Two of the Senate members are appointed by the Senate President and the other by the Senate Minority Leader. Similarly, two of the House members are appointed by the Speaker of the House and the other by the House Minority Leader. Of members of the public, one is appointed by the President of the Senate, one appointed by the Speaker of the House, and one appointed by the Governor. Under the bill, the committee must submit a report on its findings no later than January 1, 2022, after which it ceases to exist. The bill contains no appropriation for this committee.

Casino revenue taxation

The bill eliminates an exclusion from the gross casino revenue tax for “promotional gaming credits.” Under continuing law, casinos pay a 33% tax on their gross casino revenue (i.e., amounts wagered less winnings paid). Current law also provides that “gross casino revenue” does not include the issuance to casino patrons or wagering by casino patrons of any promotional gaming credit. When issuance of the promotional gaming credit requires money exchanged as a match from the patron, the excludible portion of the promotional gaming credit does not include the portion of the wager purchased by the patron.

The value of promotional gaming credits issued by Ohio casinos has regularly exceeded \$100 million annually. It was \$113.4 million in CY 2018, \$117.3 million in CY 2019, and \$102.2 million in the pandemic-affected CY 2020. The adjusted gross casino revenue (or the tax base for purposes of the 33% tax) during the corresponding periods was \$837.5 million, \$851.0 million, and \$643.4 million, respectively.

The bill removes the exclusion language from the calculation of the casino tax. This provision would have no direct effect on casino tax revenue if casinos simply eliminate all promotional gaming credits and amounts wagered by patrons remain the same. However, to the extent free play currently expands the casino tax base by generating incremental wagering activity or visits to a casino that would not otherwise occur, it is possible its elimination might indirectly result in reduced casino demand or wagering. LBO has no data on the actual effect of promotional gaming credits on the Ohio casino taxable base or how casinos would potentially adjust their operations based on the exclusion of promotional credits.

Changes to Charitable Gaming Law

The bill makes a number of changes to Ohio’s Charitable Gaming Law. Most notably, the bill establishes electronic instant bingo as a separate type of bingo, along with traditional bingo, raffles, and instant bingo, but largely regulates the operation of electronic instant bingo in the same manner as instant bingo.⁵ The bill also allows eligible veterans’ and fraternal organizations that currently offer instant bingo to offer the game using an electronic instant bingo device.

⁵ Specifies that the operation of electronic instant bingo under the bill must begin not earlier than January 1, 2022.

The bill imposes several requirements regarding the conduct of instant bingo including those that a charitable organization complies with to conduct electronic instant bingo, and further specifies what actions qualify an individual as a bingo operator. The Attorney General is required to adopt rules to govern certain aspects of electronic instant bingo. As a result, the Attorney General will experience a minimal one-time increase in administrative costs to promulgate rules.

The Attorney General's Charitable Law Section is responsible for licensing: (1) charitable organizations who apply for various bingo-related licenses, and (2) manufacturers and distributors of bingo supplies. In addition to its licensing function, the Section works, in cooperation with local law enforcement agencies when necessary and appropriate, to investigate, examine accounts and records, conduct inspections, and take any other necessary and reasonable actions to administer and enforce the Gambling Law. The Section's operating expenses are financed with moneys appropriated from the Charitable Law Fund (Fund 4180). The additional annual licensing revenue generated and credited to Fund 4180 could be as much as \$673,000 or more.

The work, and related operating expenses, of the Charitable Law Section will increase to review applications, conduct enforcement operations, and comply with the bill's other requirements. It is likely that the existing cash flow in Fund 4180 can more or less support the Section's increased annual operating costs.

Appendix

Sports wagering expanded nationwide following the repeal of the Professional and Amateur Sports Protection Act of 1992 (PASPA) by the U.S. Supreme Court on May 14, 2018.⁶ The table below summarizes monthly sports wagering revenue totals in selected states using available data collected from official state government sources. On average, the states included in the table below have received revenue of approximately \$437,000 per month from brick-and-mortar sports betting locations and approximately \$2.1 million per month from online and mobile operations since sports wagering was legalized federally.⁷ The inclusion of mobile betting appears to have a significant impact on state revenues. It should be noted however, that the unique regulatory structure in S.B. 176 cannot be easily compared with other states currently operating in the sports betting market. Thus, any extrapolation of Ohio gaming revenue based on results in these states, having operating sports betting since 2018, may be inadequate and must be made with caution.

Summary of Sports Wagering Tax Revenue in Selected States, through December 2020				
State	Retail		Mobile	
	Tax Rate	State Revenue	Tax Rate	State Revenue
Mississippi ^a	8.0%	\$8.3 million	--	--
New Jersey ^b	8.5%	\$11.1 million	14.25%	\$86.5 million
Pennsylvania ^c	34.0%	\$24.7 million	34.0%	\$69.3 million
West Virginia ^d	10.0%	\$3.2 million	10.0%	\$2.0 million

^a August 2018 – December 2020, approximately \$286,000 per month

^b June 2018 – December 2020, approximately \$385,000 per month retail operations and \$2.9 million per month mobile operations

^c November 2018 – December 2020, approximately \$950,000 per month retail operations and \$3.4 million per month mobile operations

^d November 2018 – December 2020, approximately \$126,000 per month retail operations and \$131,000 per month mobile operations. The state's mobile sports wagering operator ceased business in the state in March 2019 due to ongoing disputes with a third-party technology contract; mobile wagering resumed in August 2019.

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⁶ https://www.supremecourt.gov/opinions/17pdf/16-476_dbfi.pdf.

⁷ Distribution methods and tax rates vary significantly between states, accounting for some of the difference in revenue.