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S.B. 176
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsors: Sens. Antani and Manning

Local Impact Statement Procedure Required: No

Eric Makela, Economist, and other LBO staff

Highlights

- The bill legalizes sports wagering at brick-and-mortar locations in Ohio and via internet and mobile devices beginning April 1, 2022. The bill imposes a 10% tax on the sports gaming receipts (SGR) of sports gaming proprietors (SGPs). SGR is defined as sports wagering receipts minus paid winnings and voided wagers, and starting in 2027, minus promotional credits as allowed under the bill. Sports betting is placed under the regulatory oversight of the Casino Control Commission (CAC).
- Legalizing and taxing sports gaming will 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. After transfers to the SGTAF to defray Department of Taxation (TAX) costs, 98% of tax revenues are transferred quarterly to SGPEF. The remaining 2% is transferred to the PSGF.
- The bill requires SGPs to hold type A, type B, or type C sports gaming proprietors' licenses, and also creates the mobile management service provider license and the management service provider license. Under the bill, license fees vary by type of license, but each of those license types is valid for three years. Sports gaming equipment suppliers and workers with sports gaming-related duties are also required to obtain licenses from CAC.
- GRF revenue from the commercial activity tax (CAT) will increase between \$500,000 and \$1 million annually once gaming via SGPs is fully operational.

- The bill may increase operating costs within CAC by about \$1 million per year, primarily to increase its number of licensing, regulatory, legal, and problem gambling staff as needed to enforce the bill's provisions.
- The bill legalizes electronic instant bingo operated by charitable organizations, and limits each licensed charitable bingo location to a maximum of ten electronic instant bingo machines. The work, costs, and revenue generated for the Attorney General's bingo regulation operations will increase as a result of the changes in regulating instant bingo, electronic instant bingo, as well as the Gambling Law. It is likely that the Ohio Attorney General (AGO) annual revenue gain will pay for the increase in annual operating expenses.
- The bill creates a nine-member Select Committee on Sports Gaming and Problem Gambling, to investigate problem gambling and funding for treatment and prevention of problem gambling. In addition, the bill creates a nine-member Select Committee on iLottery, to study internet and mobile-based lottery games. The committees are required to issue reports to the General Assembly by January 1, 2022, after which they cease to exist.
- The bill specifies a government debt recovery mechanism from gambling winnings. The bill's provisions regarding withholding amounts from sports gaming, casino, and lottery winnings will increase the amount of debt collected for the state and political subdivisions. Any additional revenue from these provisions is uncertain.

Detailed Analysis

The bill makes a number of changes to Ohio's gambling laws, legalizing sports wagering through a variety of channels and raising tax and fee revenue accruing to the state. First, the bill levies a 10% tax on the sports gaming receipts (SGR) of sports gaming proprietors (SGPs), and requires nearly all industry participants to pay license fees and submit to regulatory oversight. Second, the bill changes various aspects of charitable gaming law. Last, the bill creates one legislative committee to study problem gambling funding in Ohio, and one to study internet lottery games.

The following sections discuss the S.B. 176 provisions which have notable fiscal impacts, beginning with the legalization of sports betting, followed by other provisions in order from those with the greatest fiscal impact to those with the least fiscal impact. A more in-depth discussion of every provision in S.B. 176 can be found in the [LSC bill analysis](#).

Sports gaming legalized through licensed proprietors

The bill legalizes sports wagering through licensed retail and mobile SGPs and places regulatory oversight of sports gaming activities under the Ohio Casino Control Commission (CAC). The bill requires CAC to license SGPs to offer sports gaming under type A licenses through online sports books, under type B licenses at sports gaming facilities, or under type C licenses through self-service sports gaming terminals on the premises of type C sports gaming hosts.¹ The bill

¹ A "sports gaming facility" is any brick-and-mortar location for which a business holds a type B sports gaming license issued by CAC; a "type C sports gaming host" is a holder of a class D liquor permit who meets other CAC criteria for the license.

requires CAC to begin accepting license applications on January 1, 2022, and to start issuing sports betting licenses on April 1, 2022.

Table 1 provides information on S.B. 176 provisions on licensing and general market participation of sports gaming proprietors. The bill specifies that CAC cannot issue more than 25 type A licenses, 33 type B licenses, or 20 type C licenses. The bill also creates the mobile management service provider license and the management service provider license, which must be obtained by companies wishing to provide sports gaming products through contracts with type A and type B licensed proprietors, respectively. License fees for type A SGPs and all management service providers are set at \$1 million and must be renewed every three years; the bill also assesses an additional (interim) \$500,000 fee after the first and second year of the license period. Initial license fees for type B and type C SGPs are to be \$100,000, while renewal fees for those licenses are to be \$25,000; each are also valid for three years. Lastly, businesses which hold a class D liquor permit (essentially bars and restaurants) that wish to contract with type C sports gaming providers to place sports gaming terminals in their locations must obtain a type C sports gaming host license. Each host facility can have up to two self-service terminals. Please note that the table provides the maximum possible license fee revenue. However, actual license fee revenue would be dependent on the actual number and types of licenses issued by CAC, and the timing of issuance of those licenses.

Table 1. Sports Gaming Proprietor License Fees and Characteristics			
	Type A Sports Gaming Proprietor	Type B Sports Gaming Proprietor	Type C Sports Gaming Proprietor/Host
Maximum # of licenses	25	33	20 (no limit on host licenses)
License fee	Initial: \$2 million Renewal: \$2 million	Initial: \$100,000 Renewal: \$25,000	Initial Proprietor: \$100,000 Host: \$6,000 Renewal: \$25,000 for proprietor; \$6,000 for host
Maximum possible license fee revenue	\$50 million every three years	\$3.3 million for initial licenses; \$825,000 for renewals every three years	\$2 million for initial licenses; \$500,000 for renewals for proprietor, plus uncertain host license revenue, every three years
Type of bets allowed	All*	All*	Spread, money line, over/under
Application priority characteristics	The amount of payroll salaries remitted to Ohio residents each year; reputation, experience, and financial integrity; applicant's economic involvement in the state	Professional sports teams or organizations; businesses with county population; high resident payrolls; reputation, experience, and financial integrity	Only facilities with a class D liquor license may be licensed as a type C sports gaming host

Table 1. Sports Gaming Proprietor License Fees and Characteristics

	Type A Sports Gaming Proprietor	Type B Sports Gaming Proprietor	Type C Sports Gaming Proprietor/Host
Application limitations	Must operate at least one place of business in the state	No licensees may open a facility in a county with under 100,000 residents; no more than three licenses per county	At least three type C licenses must be issued statewide

*Sports gaming offered by type A and type B licensees includes the following: exchange wagering, parlays, over/under, moneyline, in-game wagering, single game bets, teaser bets, in-play bets, proposition bets, pools, pari-mutual sports wagering pools, and straight bets.

The bill imposes a 10% tax on SGR, defined as the total amount of wagers taken in by SGPs minus winnings and voided wagers. Beginning in CY 2027, the bill also excludes a percentage of promotional gaming credits from SGR. The bill allows a partial tax exemption on promotional credits, reducing SGR by 10% of the dollar value of credits from 2027 through 2031, and reducing SGR by 20% of the value of credits thereafter. The bill requires that the sports gaming tax be administered in much the same way as the state's existing tax on casino revenue.

The bill creates the Sports Gaming Revenue Fund (SGRF), the Problem Sports Gaming Fund, and the Sports Gaming Profits Education Fund (SGPEF). All revenue from the SGR tax, all license fees regarding the sports gaming industry, and any fines imposed by CAC are deposited in the SGRF. After reimbursing the Department of Taxation (TAX) for expenses incurred in administering the tax, 98% of the remaining funds are deposited in the SGPEF, while 2% are deposited in the PSGF. Moneys in the SGPEF are to be used for purposes of funding K-12 education.² Moneys in the PSGF are to fund programs to alleviate problem sports gaming. (Those programs are unspecified in the bill).

In addition to the excise tax on SGR, SGPs are also subject to Ohio's primary business tax, the commercial activity tax (CAT). The tax is levied on a business's gross receipts, which generally includes all amounts received by the business. However, a SGP is only required to pay the CAT on its sports gaming receipts (amounts wagered less winnings paid), not on the gross amount it receives from sports gaming.

Fiscal impact

LBO anticipates that revenue during FY 2022 would be mostly derived from license fees, possibly millions of dollars depending on CAC actions, though the tax on wagering may yield some receipts.

Wagering occurring on mobile equipment and at physical locations will provide several millions of dollars in revenue, to be initially deposited in the SGRF. LBO estimates the sports gaming market to be approximately \$3.35 billion, after several years of operation. The amount of time the market takes to reach peak revenue will depend on the number of SGPs receiving licenses and the implementation of various aspects of the sports betting industry.

² Under the bill, the SGPEF must be utilized by the General Assembly to support public and nonpublic education, within programs for K-12 students.

At the outset of legal sports wagering in Ohio, LBO assumes a market of about \$2.8 billion in FY 2023 and \$3.1 billion in FY 2024. The corresponding SGR tax base might be about \$186 million and \$243 million, respectively. At the tax rate of 10%, such tax bases would yield about \$19 million and \$24 million, in those respective years to the SGRF. Of this total, 98% or about \$18.6 million and \$23.5 million, respectively, would be deposited in the SGPEF. The Problem Sports Gaming Fund would receive roughly \$300,000 to \$500,000 per year of the sports gaming tax revenues. Please note that LBO does not rule out that actual revenue to the SGRF in those years could exceed projected revenue, if the market expands rapidly.

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 SGPs 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 based on the market revenue figures above, when the sports gaming market fully matures. Most CAT revenue is deposited in the GRF.³

CAC costs

Implementation, licensing, and regulatory oversight of sports gaming will increase CAC operating costs. Currently, the Commission is funded by its share of the gross casino revenue tax (which is 3%) as well as through gaming fees and fines. CAC estimates implementation of the bill would require about ten additional staff costing between \$800,000 and \$900,000 in FY 2022, and about \$1 million in FY 2023.⁴ Two positions would be added to the licensing and investigative staff, and six additional regulatory compliance personnel are likely to be needed, according to CAC; one addition to the legal team and a problem gambling counselor would also be hired. In addition, the Commission estimates spending of approximately \$30,000 to upgrade equipment; other interagency costs, such as updates to the eLicensing system by the Department of Administrative Services, are also going to be needed to maintain the same level of licensure services.

LOT costs

The bill requires the State Lottery Commission (LOT), in consultation with CAC to work with type C SGP and hosts to implement and promote their sports gaming, and allows LOT to

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 These expenditure estimates were received by LBO in May 2021, and are based on the As Introduced version of the bill.

adopt rules for that purpose. As of this writing, LBO does not have an estimate of potential costs to the agency to implement this provision of the bill.

Changes to the 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 allows eligible veterans' and fraternal organizations that currently offer instant bingo to offer the game using an electronic instant bingo device. The bill requires the Ohio Attorney General (AGO) to begin to accept applications for electronic instant bingo on January 1, 2022, and to begin to issue those licenses on April 1, 2022.

The bill applies a limit of ten electronic instant bingo systems in use at the location of each charitable organization. The bill also 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 bill requires AGO to adopt rules to govern certain aspects of electronic instant bingo. As a result, AGO 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 Gambling Law. The Section's operating expenses are financed with moneys appropriated from the Charitable Law Fund (Fund 4180), to which any additional licensing revenue will be credited.

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.

Committee to study sports gaming and problem gambling

The bill creates the Select Committee on Sports Gaming and Problem Gambling for the purposes of studying sports gaming and developing methods of combating compulsive and problem gambling. The committee is to determine whether LOT and AGO should develop problem gambling plans to mitigate compulsive gambling and educate gambling patrons and charitable bingo participants. In addition, the committee will determine whether an appropriate amount of money is currently being allocated to the Problem Sports Gaming Fund. 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 of Representatives, and three members of the public. Two of the Senate members are appointed by the Senate President and

⁵ S.B. 176 specifies that AGO not begin accepting electronic bingo license applications prior to January 1, 2022, and that the operation of electronic instant bingo not commence prior to April 1, 2022.

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 is appointed by the Speaker of the House, and one is 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.

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 under the same procedure as the Select Committee on Sports Gaming and Problem Gambling, with committee members appointed in the same proportion and manner. 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.

Recovery of government debts from gambling winnings

Both AGO and the Department of Job and Family Services (JFS) have developed and implemented real time data match programs for the withholding of certain winnings. The JFS data match programs are used to identify lottery and casino winners who are past due on child or spousal support, whereas the AGO data match program only applies to lottery winners and is used to identify those who owe debts to the state or a political subdivision.

The bill requires a sports gaming proprietor to use the same data match program that casinos currently use to determine whether a patron owes past due child or spousal support and increases the number of days in which the amounts withheld must be transmitted to JFS from seven to 14 days. The bill also requires the AGO to implement a real time data match system for sports gaming proprietors and casino operators to identify patrons who owe debts to the state or a political subdivision, similar to the system currently used by the Ohio Lottery under continuing law. Like lottery withholdings, past due child or spousal support must be satisfied before any government debts are paid from the sports gaming or casino winnings.

As a result of these changes, the state will likely have additional avenues to recover certain debts. However, any additional revenue recouped would depend on a number of factors, including the size of the debt an individual has outstanding, whether the winnings are subject to be checked against the database, and the amount of winnings available to satisfy the debt after certain other withholdings are accounted for. There will be minimal costs to the state to implement these systems as they have been developed and are currently implemented in some capacity.

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

Table 2. 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

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

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

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

^dNovember 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.

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