Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 250 of the 128th G.A. **Date**: February 11, 2010

Status: As Introduced **Sponsor**: Reps. Book and Blessing, Jr.

Local Impact Statement Procedure Required: No — No local cost

Contents: Requires the State Lottery Commission to establish licensing procedures for video lottery sales agents and authorizes the use of video lottery terminals at not more than seven licensed commercial horseracing tracks

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	Potential increase
Lottery Profits Education Fund (Fund 7017)			
Revenues	- 0 -	Potential increase	Potential increase
Expenditures	- 0 -	Potential increase	Potential increase
State Lottery Commission			
Revenues	- 0 -	Potential increase	Potential increase
Expenditures	- 0 -	Potential increase	Potential increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- Installing video lottery terminals (VLTs) at horseracing tracks, if it occurs, will increase revenues to the Lottery Profits Education Fund (LPEF) which is solely used to support primary and secondary education. The timing of revenues and expenditures is uncertain, but would be several hundred millions of dollars.
- Revenues to the Ohio Lottery Commission would include receipts from application fees and licensing fees paid by horseracing tracks, and expenditures may include the cost of acquiring and operating the VLTs and the operating costs of a new division. The licensing fees may be up to $455 million for the seven horseracing tracks.

Local Fiscal Highlights

- No direct fiscal impact on political subdivisions.

Detailed Fiscal Analysis

House Bill 250

The bill authorizes the existing seven commercial horseracing tracks to conduct electronic lotteries by installing up to 2,500 video lottery terminals (VLTs) per track. H.B. 250 establishes licensing procedures for horseracing tracks and requires them to pay to the State Lottery Commission a nonrefundable application fee of $100,000. Also, the horseracing tracks are required to pay $65 million in licensing fees, with $13 million to be paid in five installments every three months, beginning on September 15, 2009.[1] Additionally, the bill requires each horseracing track within five years after commencing VLT operations to make at least $80 million in improvements to the buildings and grounds with not less than $20 million in improvements being made within the first year.

The bill requires that each horseracing track be paid a commission of 50% of the gross proceeds (gross machine income) of VLTs for services and personnel and for the provision, maintenance, and repair of buildings and grounds at the track. The net profit derived from the VLTs will be paid into the Lottery Profits Education Fund (Fund 7017) which is required to be used for the support of primary, secondary, vocational, and special education programs. The bill creates the Video Lottery Study Council, consisting of two House of Representatives members appointed by the House Speaker, two Senate members appointed by the Senate President, and one member appointed by the Governor, to review laws governing the operation and administration of VLT laws and to study all proposed changes in these laws. The bill also creates a division of VLTs supervised by a deputy director within the Ohio Lottery. The new division will administer the VLT program.

Fiscal analysis

The bill is broadly similar to the Governor's plan to install VLTs at horseracing tracks which was the subject of a lawsuit seeking to invalidate it. The Governor had directed the Ohio Lottery in July 2009 to implement the placement of 2,500 VLTs at each of Ohio's horseracing tracks, under the condition the General Assembly enacts such VLT legislation. The Ohio Supreme Court ruled on September 21, 2009 that the legislation supporting the Governor's plan was subject to referendum. Petitions have been collected with the intent to put the plan on the November 2, 2010 general ballot. This fiscal note assumes that VLTs at horseracing tracks would be allowed, although the timing of revenues would be uncertain. Alternatively, if the VLT plan is not approved by Ohio citizens, the revenues estimated below would not materialize.

[1] The first installment of licensing fees paid by the tracks in the Governor's VLT plan was refunded by the Ohio Lottery Commission.

Some licensing fees may be received in FY 2011, assuming the bill is effective during that fiscal year, with revenue from the operation of the VLTs occurring in future fiscal years. However, it is likely that the bulk of revenues would be collected in future biennia. Ohio has seven commercial horseracing tracks, two in or near each of Cincinnati, Cleveland, and Columbus, and one in Toledo. Application and licensing fees paid by the tracks will total $455.7 million, assuming all the tracks apply for a license. Licenses are valid for ten years.

The four casinos approved by a constitutional amendment in November 2009 (Issue 3) are also in the same regions and would compete directly with the VLTs at the tracks. Consequently, gross machine income from VLTs is likely to be lower than if there were no competing casinos. This fiscal note assumes the maximum number of machines, 2,500 VLTs at each of the horseracing tracks (although the number of machines at each track may differ), and that gross terminal income might fall in the range of $170 to $200 per terminal per day, though expanding to that level of usage might take a period of years. Assuming 363 operating days per year, these figures imply that 17,500 VLTs in Ohio would generate between $1.08 billion and $1.27 billion in gross machine income per year. The state's share of gross machine income would be between $540.0 million and $635.3 million per year if the VLT program is fully implemented and after a few years. The fiscal note assumes that the fee revenue for the licenses and the state's share of gross machine income would be paid to the state lottery gross revenue fund.[2]

Net revenues to the state will depend on the speed with which any VLT program is implemented, and competition from the four casinos authorized by the constitutional amendment of November 2009. Long-term, potential net revenues will be dependent on the overall number of machines, actual prize payouts to players, and competition in the gaming industry. The overall number of electronic devices available in a region impacts the net income per machine, with more machines tending to decrease revenue per machine. Also, the appropriate number of terminals for the various horseracing tracks is likely to depend on the local market conditions and local gaming demand.[3] Finally, Internet, national, and regional gaming competition continues to increase, and most of Ohio's neighbors have expanded gaming available in their states over the years. The growth in the supply of casinos and other types of gaming may constrain both the level and the growth of revenues from VLTs at Ohio's horseracing tracks.

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[2] The state lottery revenue fund is a custodial fund of the treasurer of state, but is not part of the state treasury. Proceeds from the sale of lotteries not used to pay required expenditures related to paying prize winnings, sales agents, and necessary operating expenses associated with the games are transferred to the State Lottery Fund and then to the Lottery Profits Education Fund.

[3] Several factors affect the demand for gaming at a particular facility, including the price of wagering, the average payout to customers, the location of the racetrack both relative to its potential customers and competing facilities within the state and outside the state, market area per capita income, and smoking bans and other government regulations.

The bill does not include any appropriations and is silent on expenditures that would be incurred by the Ohio Lottery Commission, including purchasing or leasing the VLTs, equipment, personnel, and other costs associated with a new division in charge of the VLT program. Assuming that the Ohio Lottery Commission would incur those undetermined costs, and that those costs would be paid from proceeds from VLTs, net revenue to the LPEF would be less than the state's share of gross machine income estimated above. The creation of the Video Lottery Study Council may also entail additional expenditures from the GRF or from appropriations of the Ohio Lottery Commission. The bill specifies that the five members of the Council are to serve without compensation, but that they are to be reimbursed for necessary expenses.

Indirect fiscal effects

Construction of gaming facilities and increased employment at the racetracks are likely to generate additional economic activity and tax receipts from various taxes, primarily from the sales tax, the income tax, and the commercial activity tax. Those tax receipts would be shared by the General Revenue Fund (94.1%), the Local Government Fund (3.68%), and the Public Library Fund (2.22%). The magnitude of such indirect effects are, in general, outside the scope of LSC fiscal notes.

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