

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2105 – SB 2109

April 11, 2016

SUMMARY OF ORIGINAL BILL: Requires the Speaker of the Senate, the Speaker of the House of Representatives, and the Attorney General and Reporter (Attorney General) to establish an advisory task force to review online simulated competitions, including but not limited to fantasy football, and recommend any necessary statutory revisions to the consumer protection laws that should be made to protect consumers. Requires both speakers and the Attorney General to each appoint three members to the committee for a total of nine members.

Requires the Department of Commerce and Insurance (TDCI) to provide administrative support to the task force. Requires the task force to report its findings to the Governor and both speakers by January 1, 2017. Requires all members of the task force to serve without compensation but authorizes reimbursement for travel expenses. Abolishes the task force upon the completion of the required report.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$2,500/Each One-Day Meeting

SUMMARY OF AMENDMENTS (013483, 015901): Amendment 013483 deletes all language of the original bill.

Creates the Fantasy Sports Act. Requires any person offering fantasy sports contests through an online digital platform that enables Tennessee consumers to participate in contests to be licensed as a fantasy sports operator by the Secretary of State. Requires an application for such license be submitted to the Secretary of State along with a fee.

Requires such operators to limit individual player deposits to no more than \$2,500 per month unless the player provides reasonable certification or proof that such limit should be increased. Requires operators to protect player funds on deposit. Requires players to be limited to one active and continuously used account. Requires operators to submit annual reports to the Secretary of State (SOS) regarding revenue, opened accounts, and winnings issued.

Requires the SOS to oversee licensure of operators and maintain a registry of licensed operators; to investigate alleged violations by operators; and to issue subpoenas and deny, suspend, or revoke licenses as necessary. Requires in addition to the application fee, a licensure fee, an annual renewal fee, late fees, a correction of information fee, and a change of information fee. Authorizes the SOS to charge an online transaction fee to cover costs associated with processing payments for applications for licensure or renewals of licensure paid online.

HB 2105 – SB 2109

Sets forth additional requirements for fantasy sports operators. Grants the Attorney General and Reporter all investigative and enforcement authority granted under the Consumer Protection Act of 1977 relating to violation of this Fantasy Sports Act. Prohibits any costs of any kind from being taxed against the Attorney General and Reporter.

Creates the Fantasy Sports Fund (the Fund) to be administered by the SOS. Requires all fees created under the Fantasy Sports Act to be paid into the Fund. Requires 10 percent of any funds remaining in the Fund at the end of the fiscal year to remain in the Fund and not revert to the General Fund.

Authorizes any person to present charges to the SOS against any licensee who allegedly violated this Act. Authorizes the SOS, in addition to other actions, to issue a fine up to \$25,000 per violation. Requires applications for licensure be made available prior to July 1, 2016. Effective upon becoming law for purposes of promulgating rules and for Sections 2 and 3 of the amended bill; for all other purposes, July 1, 2016.

Amendment 015901 creates the “Fantasy Sports Tax Act”. Imposes a six percent privilege tax on all adjusted revenues of fantasy sports operators to be collected and administered by the Department of Revenue to be paid quarterly. Requires 60 percent of such tax collections be allocated, from July 1, 2016 to June 30, 2017, to the General Fund and 10 percent to be allocated to the Department of Revenue for administration of this Act. Beginning July 1, 2017, requires 68 percent of such tax collections be allocated to the General Fund and two percent to be allocated to the Department of Revenue for administration. The remaining 30 percent will be allocated in all years as follows: 20 percent to the counties based on population and 10 percent to the Fantasy Sports Fund.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Revenue –

\$151,600/FY16-17/General Fund

\$25,300/FY16-17/Department of Revenue

Exceeds \$225,300/FY16-17/Fantasy Sports Fund

\$171,800/FY17-18 and Subsequent Years/General Fund

\$5,100/FY17-18 and Subsequent Years/Department of Revenue

Exceeds \$225,300/FY17-18 and Subsequent Years/Fantasy Sports Fund

Increase State Expenditures –

Exceeds \$200,000/FY16-17/Fantasy Sports Fund

\$25,100/FY16-17/Department of Revenue

Exceeds \$190,000/FY17-18 and Subsequent Years/Fantasy Sports Fund

\$5,100/FY17-18 and Subsequent Years/Department of Revenue

Increase Local Revenue – \$50,500/FY16-17 and Subsequent Years

Assumptions relative to the Fantasy Sports Act:

- Based on information provided by the Secretary of State, at least one investigator and one attorney will be required to enforce the provisions of the Act.
- There will be a one-time increase in state expenditures in FY16-17 exceeding \$10,000 from the Fantasy Sports Fund for the creation of licensure applications, licenses, and supplies for the two additional positions.
- There will be a recurring increase in state expenditures exceeding \$75,000 from the Fantasy Sports Fund for salary, benefits, training, supplies, and travel expenses for one investigator.
- There will be a recurring increase in state expenditures exceeding \$100,000 from the Fantasy Sports Fund for salary, benefits, training, and supplies for one attorney.
- There will be an additional recurring increase in state expenditures exceeding \$15,000 for licensing, postage, system development, and other costs associated with licensing and accepting payment.
- A total recurring increase in state expenditures in FY17-18 and subsequent years exceeding \$190,000 (\$75,000 + \$100,000 + \$15,000) to the Fantasy Sports Fund.
- The total FY16-17 increase in state expenditures from the Fantasy Sports Fund is estimated to exceed \$200,000 (\$10,000 one-time + \$190,000 recurring).
- The SOS will set application fees, renewal fees, penalties, and other fees at such a rate that all expenditures will be paid for using this revenue.
- There will be a recurring increase in state revenue to the Fantasy Sports Fund exceeding \$200,000.
- Any impact on General Fund revenue cannot be reasonably quantified but is considered not significant.
- Any additional cost for the Attorney General and Reporter to enforce the provisions of this bill as authorized under the Consumer Protection Act of 1977 will be not significant.
- While Fiscal Review Committee staff does not have access to the exact demographics, research does indicate there are current fantasy sports operators providing services in Tennessee; therefore, it is assumed there are a number of citizens currently playing fantasy sports within the state.
- It is unknown if the passage of the proposed legislation will significantly change the number of Tennesseans who are currently playing fantasy sports within the state.
- There are provisions in the proposed legislation that could impact participation levels:
 - Deposits are limited to \$2,500 per month unless the player provides certain certification;
 - Players are limited to one account;
 - Operators must meet multiple criteria and pay application and licensing fees which could result in some operators choosing to pass those costs onto the customers; or
 - Some players could feel more secure playing fantasy sports as a result of the games being regulated.
- Due to a number of unknown factors, the impact to participation cannot be quantified but it is reasonably assumed the net impact will not be significant.

- Since there are currently participants of fantasy sports in Tennessee and all fantasy sports are played online, it is assumed any change in participation levels or funds spent on fantasy sports by participants will not significantly impact the number of participants or amount of funds spent on the lottery since no lottery tickets can be purchased online at this time.
- Any impact to Tennessee Education Lottery proceeds is estimated to be not significant.

Assumptions relative to the Fantasy Sports Tax Act:

- Based on information provided by the Department of Revenue (DOR), approximately \$42,105,000 is spent annually in Tennessee on fantasy sports. Approximately 10 percent, or \$4,210,500, is considered adjusted (taxable) revenue.
- Total recurring tax collections are estimated to be \$252,630 ($\$4,210,500 \times 6.0\%$).
- Tax collections in FY16-17 will be allocated as follows: 60 percent to the General Fund, 20 percent to local government, 10 percent to the Fantasy Sports Fund, and 10 percent to DOR.
- The increase in state revenue in FY16-17 is estimated as follows: \$151,578 General Fund ($\$252,630 \times 60\%$); \$25,263 Fantasy Sports Fund ($\$252,630 \times 10\%$); \$25,263 DOR ($\$252,630 \times 10\%$).
- A recurring increase in local government revenue in FY16-17 and subsequent years of \$50,526 ($\$252,630 \times 20\%$).
- Tax collections in FY17-18 and subsequent years will be allocated as follows: 68 percent to the General Fund, 20 percent to local government, 10 percent to the Fantasy Sports Fund, and two percent to DOR.
- The recurring increases in state revenue in FY17-18 and subsequent years are estimated as follows: \$171,788 General Fund ($\$252,630 \times 68\%$); \$25,263 Fantasy Sports Fund ($\$252,630 \times 10\%$); \$5,053 DOR ($\$252,630 \times 2\%$).
- DOR will require one-time expenditures of \$20,000 in FY16-17 for information technology costs related to taxpayer registration and collection and recurring expenditures of approximately \$5,100 to continue to administer the Act.
- A total increase in state expenditures of \$25,100 ($\$20,000$ one-time + $\$5,100$ recurring) for FY16-17.
- A recurring increase in state expenditures of \$5,100 in FY17-18 and subsequent years.

Total Impact to the Fantasy Sports Fund:

- The total recurring increase in state revenue to the Fantasy Sports Fund in FY16-17 and subsequent years is estimated to exceed \$225,263 ($\$200,000 + \$25,263$).

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

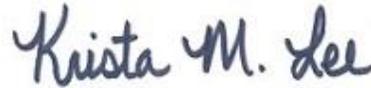
Increase Business Expenditures – Exceeds \$452,600

Assumptions for the bill as amended:

- There will be a recurring increase in business expenditures for license fees and penalties exceeding \$200,000.
- There will be a recurring increase in business expenditures for privilege taxes of approximately \$252,600.
- The total recurring increase in business expenditures is estimated to exceed \$452,600 (\$200,000 + \$252,600).
- At least two additional jobs will be created within the Secretary of State’s office; it cannot however be reasonably determined what impact if any the Act will have on employees of fantasy sports operators. The overall impact on jobs statewide will be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/jaw