

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL NOTE**

HB 1 – SB 16

February 22, 2019

SUMMARY OF BILL: Establishes a framework for sports gambling in the state of Tennessee. In order for sports gambling to be authorized in any local government in Tennessee, the respective legislative body would be required to adopt a resolution authorizing the respective county election commission to hold a referendum by special election or concurrently with a general election, on whether to allow sports gambling in the respective jurisdiction.

Creates the Tennessee Gaming Commission (Commission), consisting of nine non-legislative members. The Commission will meet at least quarterly. Members shall be provided a per diem and will be reimbursed for necessary travel expenses. The Commission is authorized to employ an executive director and staff, as necessary. The Commission shall be administratively attached to the Secretary of State's office.

In jurisdictions in which sports gambling has been approved by referendum, all individuals wishing to provide sports wagering will be required to apply with the Commission for a license and pay a nonrefundable, annual licensure fee of \$7,500. In addition, a permit will be required of any employee of a licensee who accepts wagers by bettors or the payment of winnings to bettors. Such employees must apply with the Commission for a permit and pay a nonrefundable, annual permit fee of \$250. Revenue from such fees shall be collected by the Commission and deposited to the State Treasurer in a separate account for the exclusive use of the Commission in carrying out its duties under this Act.

Establishes a 10 percent privilege tax to be imposed on the adjusted gross income collected by licensees. Defines "adjusted gross income" as the total money paid to a licensee as bets minus the total amount paid out to winning bettors over a specified period of time. Requires that the receipts of such tax be distributed in the following manner: 40 percent to the State Treasurer for deposit into the General Fund, to be appropriated for expenditures of the General Assembly; 30 percent to the State Treasurer for deposit into the General Fund, to be remitted annually to each Tennessee college of applied technology and community college in this state on a per capita basis, based on student population as determined by the Department of Revenue; and 30 percent to the State Treasurer for deposit into the General Fund, to be remitted monthly to each local government in this state on a per capita basis, as determined by population based on the last federal census.

This Act will take effect July 1, 2019.

ESTIMATED FISCAL IMPACT:

On January 9, 2019, a fiscal note was issued estimating a fiscal impact as follows:

*Increase State Revenue - \$2,975,500/FY19-20/General Fund
\$5,951,000/FY20-21/General Fund
Exceeds \$5,951,000/FY21-22 and Subsequent Years/
General Fund*

*\$2,231,600/FY19-20/TBR
\$4,463,300/FY20-21/TBR
Exceeds \$4,463,300/FY21-22 and Subsequent Years/TBR*

*Exceeds \$412,500/FY19-20 and Subsequent Years/
Tennessee Gaming Commission*

*\$3,600/FY19-20/TBI
\$1,200/FY20-21 and Subsequent Years/TBI*

*Increase State Expenditures –
Exceeds \$269,300/FY19-20/Tennessee Gaming Commission
Exceeds \$259,500/FY20-21 and Subsequent Years/
Tennessee Gaming Commission*

*\$75,200/FY19-20/Department of Revenue
\$72,000/FY20-21 and Subsequent Years/
Department of Revenue*

*\$3,600/FY19-20/TBI
\$1,200/FY20-21 and Subsequent Years/TBI*

*Increase Local Revenue - \$2,231,600/FY19-20/Permissive
\$4,463,300/FY20-21/Permissive
Exceeds \$4,463,300/FY21-22 and Subsequent Years/
Permissive*

Other Fiscal Impact – This Act will result in additional jobs and consumption expenditures within the economy, both ultimately resulting in a recurring increase in sales tax revenue collected by state and local government. In addition, this Act will result in a shift in consumer spending from goods and services to sports gaming, including a shift in money spent on lottery tickets in Tennessee to sports gaming. The net shift in consumer spending from goods and services to sports gaming, or the impact on net lottery proceeds, cannot be reasonably determined. Due to multiple unknown factors, any applicable net impact on state and local tax

revenue as a result of this Act cannot be reasonably quantified, but is considered to be positive.

In addition, there will be an unknown increase in the number of food and beverage licenses and permits issued, respectively, by state and local governing bodies. An increase in the number of issuances of such licenses and permits will result in additional state and local government tax revenue. Due to multiple unknown factors, any such additional state and local tax revenue cannot be reasonably quantified, but is considered to be positive.

To the extent a local government opts to hold a referendum not in conjunction with a regularly-scheduled primary or general election, there will be a permissive increase in local expenditures which will vary based on the size of the local government; however, any such permissive increase in expenditures is estimated to exceed \$7,000.

Based on additional information received from the Department of Revenue, such impact was in error. Based upon such additional information, the estimated impact is as follows:

(CORRECTED)

Increase State Revenue - \$2,975,500/FY19-20/General Fund

\$5,951,000/FY20-21/General Fund

**Exceeds \$5,951,000/FY21-22 and Subsequent Years/
General Fund**

\$2,231,600/FY19-20/TBR

\$4,463,300/FY20-21/TBR

Exceeds \$4,463,300/FY21-22 and Subsequent Years/TBR

**Exceeds \$412,500/FY19-20 and Subsequent Years/
Tennessee Gaming Commission**

\$3,600/FY19-20/TBI

\$1,200/FY20-21 and Subsequent Years/TBI

Increase State Expenditures –

Exceeds \$269,300/FY19-20/Tennessee Gaming Commission

**Exceeds \$259,500/FY20-21 and Subsequent Years/
Tennessee Gaming Commission**

\$975,200/FY19-20/Department of Revenue

**\$72,000/FY20-21 and Subsequent Years/
Department of Revenue**

\$3,600/FY19-20/TBI

\$1,200/FY20-21 and Subsequent Years/TBI

**Increase Local Revenue - \$2,231,600/FY19-20/Permissive
\$4,463,300/FY20-21/Permissive
Exceeds \$4,463,300/FY21-22 and Subsequent Years/
Permissive**

Other Fiscal Impact – This Act will result in additional jobs and consumption expenditures within the economy, both ultimately resulting in a recurring increase in sales tax revenue collected by state and local government. In addition, this Act will result in a shift in consumer spending from goods and services to sports gaming, including a shift in money spent on lottery tickets in Tennessee to sports gaming. The net shift in consumer spending from goods and services to sports gaming, or the impact on net lottery proceeds, cannot be reasonably determined. Due to multiple unknown factors, any applicable net impact on state and local tax revenue as a result of this Act cannot be reasonably quantified, but is considered to be positive.

In addition, there will be an unknown increase in the number of food and beverage licenses and permits issued, respectively, by state and local governing bodies. An increase in the number of issuances of such licenses and permits will result in additional state and local government tax revenue. Due to multiple unknown factors, any such additional state and local tax revenue cannot be reasonably quantified, but is considered to be positive.

To the extent a local government opts to hold a referendum not in conjunction with a regularly-scheduled primary or general election, there will be a permissive increase in local expenditures which will vary based on the size of the local government; however, any such permissive increase in expenditures is estimated to exceed \$7,000.

Assumptions:

State, Local, and Federal Revenue – Sports Gaming

- This Act imposes a 10 percent privilege tax on adjusted gross income, also known as gross gaming revenue (GGR). Revenue from this tax is required to be allocated in the following ways:
 - 40 percent to the General Fund, to be appropriated for expenditures by the General Assembly;
 - 30 percent, to be remitted annually to each Tennessee college of applied technology and community college in this state on a per capita basis, based on student population, as determined by the Department of Revenue (both types of colleges fall under the Tennessee Board or Regents, or “TBR”); and
 - 30 percent allocated equally between:
 - The county trustee or county recorder, as applicable, to be used for the applicable local government’s school system; and

- The county or city general fund, as applicable, to be used for local infrastructure projects.
- For purposes of estimating gaming revenue and consequentially, additional state tax revenue that will be collected as a result of the proposed privilege tax, the 2017 study by Oxford Economics entitled “Economic Impact of Legalized Sports Betting,” was considered. This study was commissioned by the American Gaming Association.
- This study did not take into account how many local government jurisdictions will ultimately authorize sports gambling.
- It is assumed sports gambling will be approved by referendum for all local jurisdictions in Tennessee.
- This Act restricts participation in sports gaming to individuals who are 21 years of age or older.
- Based on the information from the U.S. Census Bureau (2017), there are approximately 4,959,180 residents in Tennessee who are 21 years of age or older.
- Based on the Oxford Economics study and adjusting for moderate access to high speed internet in Tennessee and the expected ramp-up period for the sports gambling industry after enactment of this legislation, the annual GGR per adult is estimated to be \$30.
- A total annual GGR of \$148,775,400 (4,959,180 x \$30).
- Due to the effective date of this legislation, it is assumed that sports gaming will not commence and be available to bettors until January 1, 2020; therefore, the GGR in FY19-20 is estimated to be equal to one half-year.
- A total annual GGR in FY19-20 of \$74,387,700 (\$148,775,400 x 50%).
- An increase in state revenue to the state General Fund in FY19-20 of \$2,975,508 (\$74,387,700 x 10% x 40%).
- An increase in state revenue to the TBR in FY19-20 of \$2,231,631 (\$74,387,700 x 10% x 30%).
- A permissive increase in local tax revenue in FY19-20 of \$2,231,631 (\$74,387,700 x 10% x 30%).
- A total annual GGR in FY20-21 of \$148,775,400.
- An increase in state revenue to the state General Fund in FY20-21 of \$5,951,016 (\$148,775,400 x 10% x 40%).
- An increase in state revenue to the TBR in FY20-21 of \$4,463,262 (\$148,775,400 x 10% x 30%).
- A permissive increase in local tax revenue in FY20-21 of \$4,463,262 (\$148,775,400 x 10% x 30%).
- A total annual GGR in FY21-22 and subsequent years exceeding \$148,775,400.
- An increase in state revenue to the state General Fund in FY21-22 and subsequent years exceeding \$5,951,016 (\$148,775,400 x 10% x 40%).
- An increase in state revenue to the TBR in FY21-22 and subsequent years exceeding \$4,463,262 (\$148,775,400 x 10% x 30%).
- A permissive increase in local tax revenue in FY21-22 and subsequent years exceeding \$4,463,262 (\$148,775,400 x 10% x 30%).

State Revenue – Licenses and Permits

- This Act requires that businesses seeking to provide sports gambling services to first be issued a license from the Tennessee Gaming Commission.
- An annual, nonrefundable fee of \$7,500.
- It is assumed that there will be at least fifty licenses issued initially, and an annual average of 50 licensees each year thereafter, resulting in a recurring increase in state revenue \$375,000 (50 x \$7,500).
- In addition to licenses, a permit will be required of any employee of a licensee who accepts wagers by bettors or the payment of winnings to bettors.
- An annual, nonrefundable fee of \$250 per employee.
- It is assumed that there will be at least three employees per licensee which will need to obtain a permit, resulting in a recurring increase in state revenue estimated to exceed \$37,500 (3 x 50 x \$250).
- A total recurring increase in state revenue from licensure and permit fees exceeding \$412,500 (\$375,000 + \$37,500) beginning in FY19-20.
- This amount will be collected by the Commission and distributed to the State Treasurer, to be held in a separate account for the exclusive use of the Commission in carrying out its duties under this Act.

National Criminal Background Checks

- This legislation requires that each person listed as a principal owner, partner, member of a board of directors, officer, or supervisory employee includes with their license or permit application a national criminal background check.
- National criminal background checks cost a total of \$32.65, to be paid by each applicant.
- The disbursement of this fee and the related impacts are as follows:
 - Tennessee Bureau of Investigation (TBI): \$12;
 - Federal Bureau of Investigation (FBI): \$12; and
 - Applicable vendor: \$8.65.
 - It is assumed that there will be an average of six individuals required to undergo a background check per each licensee in the initial year and approximately two individuals per licensee, on average, for all subsequent years.
 - An increase in state revenue to the TBI of \$3,600 in FY19-20 (50 licensees x 6 background checks x \$12 disbursement).
 - An increase in state revenue to the TBI of \$1,200 in FY20-21 and subsequent years (50 licensees x 2 background checks x \$12 disbursement).
 - It is assumed that the cost for TBI to perform such background checks offsets equally with the revenue collected to perform them.
 - An increase in state expenditures to the TBI of \$3,600 in FY19-20.
 - A recurring increase in state expenditures to the TBI of \$1,200 in FY20-21 and subsequent years.

Secondary Impacts

- There will be secondary impacts associated with this Act. Such impacts are estimated to include but not be limited to a net increase in jobs created by the sports gaming industry, as well as additional purchases made by bettors at sports gaming locations, both of which will result in additional sales tax revenue collected by state and local government. Due to

multiple unknown factors, any increase in sales tax revenue as a result of this Act cannot be reasonably quantified, but is considered to be positive.

- In addition, this Act will result in a shift in spending from goods and services to sports gaming, including a shift from spending on lottery tickets in Tennessee to sports gaming.
- The net shift in spending from goods and services to sports gaming, or the impact on net lottery proceeds, cannot be reasonably determined.
- Under current law, pursuant to Tenn. Code Ann. § 39-17-504(c), the offense of aggravated gambling promotion is a Class E felony. The proposed Act removes lawfully accepting or placing a wager on a sporting event in accordance with the Act from the definition of gambling under this part. However, any decrease in state or local incarceration expenditures is estimated to be not significant.
- The Act creates multiple misdemeanor offenses for specific violations of the Act. There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures associated with such offenses.

Expenditures - Tennessee Gaming Commission

- The Commission will be comprised of nine non-legislative members. The Governor, Speaker of the Senate, and Speaker of the House of Representatives will each appoint three members, or one from each Grand Division.
- Meetings are required to be held at least quarterly.
- Members will meet once per month, or 12 times per year.
- Members will be provided per diem and reimbursement for travel expenses.
- Meetings will take place in Nashville.
- Six of the nine members, each residing in either the East or West Grand Division, will receive reimbursement for lodging (\$170) and travel (\$139), for a total of \$309 per meeting (\$170 + \$139).
- All nine members will receive reimbursement for meals and incidentals (\$59)
- Travel expenses for 12 annual meetings will total \$28,620 {12 meetings x [(\$309 x 6 members) + (\$59 x 9 members)].
- The Commission will hire a minimum of three employees: one executive director, one budget analyst, and one executive assistant to aid in meeting the Commission's requirements.
- A recurring increase in state expenditures estimated to exceed \$230,853 (salary \$167,500 + benefits \$36,739 + FICA \$12,814 + office lease \$6,600 + phone/network \$5,400 + supplies \$1,800) and one-time state expenditures estimated to exceed \$9,800 (office furniture \$6,000 + computers \$3,800).
- A total increase in state expenditures exceeding \$269,273 (\$28,620 + \$230,853 + \$9,800) in FY19-20 and exceeding \$259,473 (\$28,620 + \$230,853) in FY20-21 and subsequent years.
- These expenditures will be paid by the Commission with revenue collected through licensure and permit fees.

Expenditures – Department of Revenue

- The Department of Revenue will require one additional tax auditor 3 position to conduct audits of licensees and permittees.
- A recurring increase in state expenditures of \$71,980 (salary \$55,000 + benefits \$12,172 + FICA \$4,208 + supplies \$600) and a one-time increase in state expenditures of \$3,200 (computer-related costs \$1,200 + office furniture \$2,000).
- In addition, the Department of Revenue will require a vendor to perform programming work in order to add two new tax types.
- A one-time increase in state expenditures in FY19-20 of \$900,000.
- A total increase in state expenditures of \$975,180 (\$71,980 + \$3,200 + \$900,000) in FY19-20 and \$71,980 in FY20-21 and subsequent years.

Expenditures – Local Government

- In the event a local government elects to hold a referendum which is in conjunction with a regularly-scheduled primary or general election, there will be no increase in local expenditures associated with the referendum; however, if the referendum is not held in conjunction with a regularly-scheduled primary or general election, the permissive increase in local expenditures will be dependent upon the size of the municipality or county holding the referendum.
- According to information provided by the Division of Elections, costs for elections range from \$10,553 to \$773,299, based on figures from the 2016 Presidential Preference Primary; with median costs of approximately \$27,086. Municipal elections range from approximately \$7,000 for a small municipality to approximately \$36,000 for a larger municipality.
- The number of local governments electing to hold a referendum not in conjunction with a regularly-scheduled election is unknown; however it is estimated any permissive increase in local expenditures for conducting such a referendum will exceed \$7,000.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

/jdb