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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 194
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 194's Bill Analysis](#)

Version: As Reported by House Finance

Primary Sponsors: Reps. Greenspan and Kelly

Local Impact Statement Procedure Required: No

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Highlights

- The bill legalizes sports wagering at Ohio casinos, racinos, and veterans and fraternal organizations (which are specified as sport wagering agents). The bill also authorizes mobile or internet-based gaming. The Ohio Lottery Commission (LOT) is charged with administrative authority over sports wagering activities. H.B. 194 creates the Sports Gaming Revenue Fund and requires all state revenues generated from sport gaming to be deposited in the fund.
- The bill imposes a 10% tax on gross gaming revenue (GGR) to be paid by sport wagering agents. GGR is defined as sports wagering receipts minus winnings paid to gamblers, federal excise taxes, voided wagers, and uncollectable debts. This tax is to generate about \$17.7 million in FY 2022 and up to \$23.0 million in FY 2023. LBO assumes no tax collections in FY 2021 based on the length of time needed for implementation of this new program.
- Sports wagering agents are required to hold certain licenses and to pay for those licenses. The bill is expected to raise approximately \$1.3 million in license fees in the first year of operations, and between \$0.3 million and \$0.5 million in license fees in subsequent years. This estimate assumes that all casinos and racinos offer sports betting.
- The bill creates several funds for the administration of the sports wagering program, and requires the Director of Budget and Management to transfer funds to LOT, the Casino Control Commission (CAC), and the Department of Taxation (TAX) to compensate agencies for costs associated with the regulation, enforcement, and taxation of sports wagering.

- The bill requires LOT to provide and install 1,250 self-service lottery terminals within 90 days of the bill's effective date, and an additional 1,250 terminals in the next 90 days. The terminals are to be allocated to lottery sales agent locations holding a Class C or Class D liquor permit. The additional terminals will increase LOT net profits by several millions when fully implemented. Thus, profit transfers to the Lottery Profit Education Fund would also increase.
- The bill will also increase revenue from the commercial activity tax (CAT), the state personal income tax, and the municipal income tax. The revenue increase for each tax source would be small.

Detailed Analysis

H.B. 194 legalizes sports wagering via internet and mobile devices, and at Ohio's casinos, racinos, and veterans and fraternal organizations for people age 21 and older. The regulatory framework is placed under the authority of the Ohio Lottery Commission (LOT).¹ Under current law, all net profits from the Commission are transferred to the Lottery Profits Education Fund (Fund 7017) in the Department of Education's budget. The bill imposes a 10% tax on net revenue from sports gaming. This net revenue is defined as the sports gaming agent's sports gaming receipts (wagering receipts minus paid winnings, federal excise taxes, voided wagers, and uncollectable debts). The tax operates much the same way as the state's existing tax on casino revenue and the agent must file daily tax returns.

H.B. 194 also requires sports gaming agents to withhold state and municipal income taxes on winnings whenever federal income tax withholding is required. It specifies that operators must pay the commercial activity tax (CAT) on their net receipts from sports gaming, not on gross receipts. The bill requires LOT to issue three types of sports gaming licenses (sports gaming agent licenses, management services provider licenses, and occupational licenses) and provides the general eligibility requirements for sports gaming licenses, application for a license, and renewal of a license.

H.B. 194 creates the Sports Gaming Revenue Fund in the state treasury and requires all state revenues generated from sports gaming to be deposited in the fund, including revenue from the tax imposed on sports gaming receipts, all fees, fines, and other revenue collected in administering sports gaming. It creates several additional funds into which the Director of Budget and Management must transfer moneys from the Sports Gaming Revenue Fund in order to cover the expenses incurred by LOT, the Ohio Casino Control Commission (CAC), and the Department of Taxation (TAX) in regulating and taxing sports gaming. The bill requires that after the expenses are paid, 98% of the remaining funds in the Sports Gaming Revenue Fund are to be transferred to the Lottery Profits Education Fund (Fund 7017), and 2% to the Problem Sports Gaming and Addiction Fund created by the bill. The bill increases the membership of LOT from nine to 11 members, and requires three members of the Commission to have gaming experience. LOT is to adopt sports gaming rules, and the bill creates the Sports Gaming Advisory

¹ Several other states have also placed sports wagering activities under the regulatory oversight of the state lottery.

Board to advise the Commission and to study and develop recommendations for the Commission's sports gaming rules. The Board is to consist of five members appointed by the Governor. Not more than three of the board members can be from the same political party. Details of the regulatory framework for the legalization and regulation of the sports wagering industry in Ohio are available in LSC's bill analysis.²

Sports wagering tax revenues

H.B. 194 imposes the sports wagering tax on gross gaming revenue (GGR) which is estimated at approximately \$177 million in FY 2022 and to \$230 million in FY 2023. Given the time needed for the implementation of a new regulatory framework after enactment of the bill, LBO assumes little yield from the sports wagering tax in FY 2021. When this program is fully implemented, the tax is estimated to produce about \$17.7 million in FY 2022 and up to \$23.0 million in FY 2023.³ The sports wagering tax revenue is deposited in the Sports Gaming Revenue Fund.

LBO's estimates of the market size for sports wagering is primarily based on data from various market research reports on the industry, academic research, and tax revenues from sports betting in other states. The initial estimates were adjusted for state-level differences in gambling-age population, tax rates, gambling propensity,⁴ and Ohio-specific regulatory factors. Please note that the estimates above are affected by both the level of market participation by new entrants in the industry, as well as a rate of capture into the legal market of amounts currently wagered in the illegal sports betting market, and the availability of sports betting in neighboring states.⁵

Sports gaming agents are subject to the CAT. Though the CAT is generally levied on a business' gross receipts (i.e., all amounts received by the business), H.B. 194 provides that the sports wagering tax is applied to GGR (amount wagered less winning paid, federal excise taxes, voided wagers, and uncollectable debts), similar to the casino tax. H.B. 194 is expected to increase CAT revenue by up to \$650,000 per year. CAT revenue is deposited in the GRF. Legalization of sports betting in Ohio will also increase revenue from the state personal income tax (PIT) and municipal income taxes by uncertain, but small amounts. Revenue from the PIT is deposited in the GRF.

License fees

The bill allows a casino operator or video lottery sales agent to offer sports betting games once the facility has been granted a license by LOT. Any casino operator or video lottery sales

² <https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA133-HB-194>.

³ These estimates assume consumer spending in general and spending on gaming activities have returned to their pre-COVID-19 levels.

⁴ A state's gambling propensity is measured by per-capita gross casino revenues, using data published by the American Gaming Association (AGA) and U.S. Census Bureau.

⁵ West Virginia and Pennsylvania have already legalized both retail and mobile sports gaming. Retail sports wagering in Indiana was legalized in May 2019. A bill authorizing sports gaming was referred from committee in the Kentucky House of Representatives in February 2019.

agent submitting an application for a sports gaming agent license must submit a nonrefundable \$100,000 fee to the Lottery Commission. License terms run concurrently with the agent's casino operator license or video lottery sales agent license, and expire at the expiry of that license. The fee required for renewal of the sports gaming agent license is equal to \$100,000 or 1% of the agent's gross receipts from sports wagering in the previous year. LBO estimates \$1.1 million in collections from sports gaming agent licenses in the first year of operation.

Licensed sports gaming agents may contract with a management service provider to offer sports gaming products on the agent's behalf. License and application fees for management service providers are \$1,000. License reciprocity from another state authority is allowed. Management service provider licenses must be renewed annually; the renewal fee is \$1,000. LBO estimates annual revenue from management service provider licenses to be under \$20,000. These estimates assume that all Ohio casinos and racinos offer sports betting.

Fraternal and veterans organizations are authorized to offer sports wagering under H.B. 194. Under the bill, LOT is required to establish regulations under which these organizations are permitted to enter into sports wagering agreements with management service providers or sports gaming agents. Participating fraternal and veterans organizations are required to hold a D-class liquor permit and pay a nonrefundable application fee of \$1,000. Each time a sports wagering contract is renewed, a \$1,000 fee must be paid by the organization to LOT. About 1,512 fraternal and veterans organizations were registered in Ohio as of May 2019. LBO staff is uncertain of the share of such organizations that would participate in sports betting. All fees paid by fraternal and veterans organizations are deposited in the Sports Gaming Revenue Fund.

Agency sports wagering funds

The bill creates the following sports gaming funds at the agencies that are participating in the regulation of the new industry: the Lottery Commission Sports Gaming Fund, the Casino Control Commission Sports Gaming Fund, and the Sports Gaming Tax Administration Fund. Under the bill, the Director of Budget and Management must transfer moneys from the Sports Gaming Revenue Fund to these funds in order to make reimbursements and pay the expenses involved in regulating sports gaming in Ohio.

Under the bill, up to 10% of sports wagering tax receipts may be remitted to the LOT Sports Gaming Fund as reimbursement for program administration costs. CAC is tasked with enforcing laws and ensuring integrity within the sports gaming market. Their enforcement costs are reimbursed from sports wagering proceeds through the CAC Sports Gaming Fund. The Department of Taxation is charged with administering the tax revenues and transferring moneys between funds, and receives reimbursement for their added expenses via the Sports Gaming Tax Administration Fund.

Currently, LBO is not able to determine the extent to which costs will rise for each agency upon passage of H.B. 194. The bill requires expenses for these three agencies to be reimbursed prior to sports wagering tax revenues being distributed to the Lottery Profits Education Fund and the Problem Sports Gaming and Addiction Fund.

Additional lottery terminals

The bill requires LOT to provide and install 1,250 self-service lottery terminals within 90 days of the bill's effective date, and an additional 1,250 terminals in the next 90 days at lottery retailers holding a Class C or Class D liquor permit (bars and restaurants). The additional

terminals required by the bill will increase LOT net profits. As of the writing of this fiscal note, an estimate of additional net profits is not available, though it could plausibly exceed \$15 million per year when LOT fully deploys the new equipment. As stated earlier, net profits from LOT operations are transferred to Fund 7017 for use in programs benefiting primary, secondary, vocational, and special education. Consequently, this provision would increase transfers to the LPEF.

Other considerations

Because the bill allows legal sports wagering in Ohio, probable substitution effects exist between sports wagering and lotteries and other games of chance.⁶ Currently, research data do not support a statistically significant substitution effect between sports wagering and the other types of gaming. It may also be possible that sports wagering increases the number of gamblers and overall spending on gaming. LBO did not estimate these indirect effects, and the revenue estimates do not quantify these effects.

Sports gaming revenue in other states

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, 2018.⁷ The table below summarizes CY 2019 sports wagering revenue totals in selected states using available data collected from official state government sources. As shown in the table, tax rates, inclusion of mobile gaming, and the number of gamblers within a geographical region affect sports wagering tax revenue. For example, mobile sports gaming appears to have increased gaming revenue in the state of New Jersey, which averaged more than \$2.2 million per month in mobile sports wagering tax revenue in 2019.⁸

Sports Wagering Tax Revenue in Selected States, CY 2019				
State	Retail		Mobile	
	Tax Rate	State Revenue	Tax Rate	State Revenue
Mississippi ^a	8.0%	\$3.6 million	--	--
New Jersey ^b	8.5%	\$4.5 million	14.25%	\$31.8 million
Pennsylvania ^c	34.0%	\$14.0 million	34.0%	\$14.6 million
Rhode Island ^d	51.0%	\$7.9 million	51.0%	\$1.0 million

⁶ Games of chance primarily include table games, video lottery terminals, and slot machines.

⁷ https://www.supremecourt.gov/opinions/17pdf/16-476_dbfi.pdf.

⁸ It is likely that much of this mobile gaming revenue arises from transients who may be physically located in New Jersey for a limited amount of time, as neighboring states New York and Delaware do not offer such an option to gamblers.

Sports Wagering Tax Revenue in Selected States, CY 2019				
State	Retail		Mobile	
	Tax Rate	State Revenue	Tax Rate	State Revenue
West Virginia ^e	10.0%	\$1.4 million	10.0%	\$0.5 million

^a Sports betting revenues began August 2018.

^b Sports betting revenues began June 2018.

^c Sports betting revenues began November 2018.

^d Sports betting revenues began November 2018.

^e Sports betting revenues began November 2018.

As of the date of PASPA's repeal, several states had already passed bills which set up the legal and regulatory frameworks for sports wagering, allowing sports wagering agents in those states to begin operations more quickly. The dates at which sports wagering activities began significantly affected the yield of the tax in various states, especially in the early months of operations. By the end of 2019, most markets had started to stabilize, though they have all been disrupted by establishment closures during the current pandemic.