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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

S.B. 111
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 111's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sens. Eklund and O'Brien

Local Impact Statement Procedure Required: No

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Highlights

- The bill legalizes sports wagering via internet and mobile devices, and in Ohio's casinos and racinos. The regulatory authority for sports wagering is placed under the purview of the Casino Control Commission (CAC).
- The bill imposes a 6.25% tax rate on gross gaming receipts (GGR), defined as wagering receipts minus paid winnings, promotional play, voided wagers, and uncollectable debts. Revenues from the tax are estimated to be approximately \$15 million in FY 2021 and approximately \$20 million in FY 2022. LBO assumes no tax collections in FY 2020 based on the length of time needed for implementation of this new program. Proceeds from the tax are deposited in the GRF.
- Approximately \$1.2 million in license fees are expected during the first year of operation. The bill requires sports wagering operators to pay a \$100,000 administration fee every five years. Annual revenues from management services provider licenses and occupational licenses are expected to be minimal. S.B. 111 creates the Sports Wagering Revenue Fund in the custody of the Treasurer of State but not in the state treasury, and requires all business and occupational license fees to be deposited in the fund. Because the fund is not in the state treasury, any expenditures from the fund would not require appropriations by the General Assembly.
- The bill subjects the gross sports wagering receipts of sports wagering operators to the commercial activity tax (CAT), increasing CAT revenue by an estimated \$850,000 per year. CAT revenue is allocated primarily to the GRF (85%), with smaller shares going to local property tax replacement funds. The bill will also increase tax collections from the personal income tax (PIT) and municipal income taxes.

Detailed Analysis

Overview

S.B. 111 legalizes sports wagering in Ohio for persons age 21 and older. A 6.25% tax is levied on sports wagering receipts, with revenue from the tax deposited in the GRF. The bill requires sports gaming operators to withhold state and local income taxes on winnings whenever federal tax withholding is required. Operators are required to pay the commercial activity tax (CAT) on their gross gaming receipts.

The Casino Control Commission (CAC) is required to administer licenses for sports betting operators and management services providers; the Commission is also to adopt rules and requirements for occupational licenses. S.B. 111 creates the Sports Wagering Revenue Fund in the custody of the Treasurer of State, and requires all proceeds from fees and licensure activities to be deposited in the fund. Because the fund is not created in the state treasury, expenditures from it do not require appropriations by the General Assembly; the Treasurer of State is to disburse money from the fund on order of the Executive Director of CAC. Creation and enactment of the regulatory framework falls under the guidance of CAC, which is required to regulate all sports wagering activities. CAC is required to adopt rules governing sports wagering operations, financial recordkeeping, and protocols for online and mobile wagering.

Sports wagering tax revenue

S.B. 111 imposes a 6.25% tax rate on sports wagering receipts, which is defined as the total amount received minus winnings paid, promotional play, voided wagers, and uncollectable debt. Total sports wagering receipts under S.B. 111 are estimated to be approximately \$240 million in FY 2021 and \$320 million in FY 2022. Due to a delay in implementation of the new regulatory framework, LBO assumes no yield from the tax in FY 2020. Estimated tax receipts on this revenue are approximately \$15 million in FY 2021 and \$20 million in FY 2022. The sports wagering market's revenue is expected to grow modestly after FY 2022.

LBO's estimates of the market size for sports wagering are primarily based on data from various market research reports on the industry, academic research, and tax revenues from sports betting in other states. Initial estimates were adjusted for state-level differences in gambling-age population, tax rates, gambling propensity,¹ 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.² The method of distribution of sports wagering products is also considered to be an important determinant of consumer participation.

¹ 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.

² 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.

Sports gaming agents are subject to the CAT. Though the CAT is usually levied on a business's gross receipts (i.e., all amounts received by the business), S.B. 111 provides that the sports wagering tax is applied to gross gaming receipts (GGR) (amount wagered less winnings paid, promotional play, voided wagers, and uncollectable debts), in a manner similar to the casino tax. The bill is expected to increase annual CAT collections by up to \$850,000, 85% of which would be deposited in the GRF, with the remainder deposited into the School District Tangible Property Tax Replacement Fund (13%) or the Local Government Tangible Property Tax Replacement Fund (2%). Sports betting activities will also increase revenue from the personal income tax (PIT) and municipal income taxes by uncertain, but small amounts. Revenue from the PIT is deposited in the GRF.

License fees

Businesses which want to offer sports wagering must be granted a sports wagering operators license by CAC. The licensure process requires applicants to meet the Commission's qualifications and pay a nonrefundable application fee of \$100,000. An additional \$100,000 administration fee is payable by sports wagering operators to CAC every five years of operation in the sports wagering industry. The fee is expected to generate \$1.1 million during the first year of operation. This estimate assumes each of the four casinos and seven racinos (horse racetracks at which video lottery terminals are installed) applies for a license.

Licensed sports gaming agents may contract with a management service provider to offer sports wagering products on the agent's behalf. Management service providers are required to obtain a license from CAC. In addition to meeting all requirements set forth by CAC, management service providers must pay a nonrefundable application fee of \$10,000. License reciprocity is allowed, meaning that CAC may accept another jurisdiction's management service provider license if licensing requirements are similar; the annual renewal fee is \$1,000. LBO estimates annual revenue from management service provider licenses to be under \$20,000.³ Under S.B. 111, all licensure fees are to be deposited in the Sports Wagering Revenue Fund.

The bill requires CAC to issue supplier's licenses to vendors wishing to provide sports wagering devices to sports wagering operators. The supplier's licenses must be consistent with its procedures for issuing gaming-related vendor licenses under current law.

CAC is also required to develop standards under which sports wagering employees should be licensed. Licensure standards are set to be similar to that for casino employees, and provide that no employee licensed in a similar occupation require licensure under new occupational licensure mandates.

Disposition of revenue and Casino Control Commission

All revenue derived from taxation of GGR and from civil legal proceedings in connection with sports wagering are to be deposited in the GRF.⁴ All fees and licensure revenue is deposited in the Sports Wagering Revenue Fund. Moneys in the Sports Wagering Revenue Fund

³ This is an LBO estimate, based on conversations with CAC officials.

⁴ CAC must set the amounts of any civil penalties for violations of Chapter 3775 (to be enacted by the bill) by rule. The maximum amount for such a civil penalty is \$50,000 per violation.

are to be disbursed on order of the Director of the Casino Control Commission, presumably to defray the costs associated with set up of the regulatory framework and ongoing administration and enforcement of sports wagering law within the state. A CAC official indicated that the Commission had not yet fully assessed the potential administrative costs from the bill.

Other considerations

The bill establishes a number of violations that would be criminal offenses, classifying some as misdemeanors and some as felonies. Among the violations specified are bribery of a sports wagering operator or an employee of such an operator with the intent to affect the outcome of a wager, or an operator or employee accepting such a bribe, either of which is classified a felony of the third degree. Among less serious offenses in the bill, allowing an individual under the age of 21 to place a sports wager would be a misdemeanor of the first degree for a first offense and a felony of the fifth degree for any subsequent offenses. New criminal offenses could increase court costs and incarceration costs. Increases in court costs could be offset, in whole or part, by revenue from penalties.

Because the bill allows legal sports wagering in Ohio, probable substitution effects exist between sports wagering and lotteries and other games of chance.⁵ 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 in Ohio's casinos and racinos. LBO did not estimate these indirect effects, and the revenue estimates do not quantify these effects.

S.B. 111 requires all sports wagering patrons betting from mobile sites to be physically located in the state of Ohio, and have an established account on file with the sports wagering operator before the patron may utilize the mobile platform. The bill requires the sports wagering account to be in the name of an individual and not in the name of any other kind of legal entity.

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, 2018.⁶ The table below summarizes monthly sports wagering revenue totals in selected states using available data collected from official state government sources. On average, the states included in the table below have received revenue of approximately \$551,000 per month from retail operations and \$1,397,000 per month from online and mobile operations since sports wagering was legalized federally.⁷ Two of those states, Pennsylvania and Rhode Island, have tax rates

⁵ Games of chance primarily include table games, video lottery terminals, and slot machines.

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

⁷ Distribution methods and tax rates vary significantly between states, accounting for some of the difference in per-month revenue.

significantly higher than that proposed in S.B. 111. The inclusion of mobile sports gaming appears to have a significant impact on state revenues.⁸

Summary of Sports Wagering Tax Rates and Revenue in Selected States				
State	Retail		Mobile	
	Tax Rate	Revenue/Month	Tax Rate	Revenue/Month
Delaware ^a	N/A	\$1,080,000	--	--
Mississippi ^b	8.0%	\$229,000	--	--
New Jersey ^c	8.5%	\$413,000	14.25%	\$1,914,000
Pennsylvania ^d	34.0%	\$1,009,000	34.0%	\$880,000
Rhode Island ^e	51.0%	\$367,000	--	--
West Virginia ^f	10.0%	\$210,000	--	--

^a In FY 2019, 49.6% of revenue was derived from lottery retailer parlay cards. Limited sports wagering has been offered in the state since 2009. Currently, mobile sports betting is legal but not offered.

^b Sports gaming began in August 2018.

^c Retail sports gaming began in June 2018, and mobile sports gaming began in August 2018.

^d Retail sports gaming began in November 2018, and mobile betting began in May 2019.

^e Sports gaming began in November 2018.

^f January 2019–October 2019. Sports gaming began in November 2018.

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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.