

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5525-03
Bill No.: SCS for HCS for HB 1941
Subject: Taxation and Revenue - General; Gambling
Type: Original
Date: May 2, 2016

Bill Summary: This proposal provides licensing and taxation for daily fantasy sports games.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	Unknown	Unknown	Unknown
Total Estimated Net Effect on General Revenue	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Fantasy Sports Fund*	\$0	\$0	\$0
Gaming Commission Fund	(\$100,570)	(\$257,134)	(\$259,624)
Total Estimated Net Effect on Other State Funds	(\$100,570)	(\$257,134)	(\$259,624)

*Revenue and Costs Net to Zero

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Gaming Commission	4 FTE	4 FTE	4 FTE
Total Estimated Net Effect on FTE	4 FTE	4 FTE	4 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	\$1,092,000	\$1,092,000	\$1,092,000

FISCAL ANALYSIS

ASSUMPTION

In response to a previous version, officials at the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** assumed the proposal will have a negative fiscal impact on their organization.

Based upon a white paper created by the Massachusetts Gaming Commission, there are at least twenty fantasy contest operators that would be required to register with the department, generating \$100,000 in fee revenue annually (20 operators X \$5,000 registration fee). There could be additional operators that would be required to be registered, as a member search on the Fantasy Sports Trade Association website generated over 300 results. However, it is unknown how many additional operators would be required to register. Fantasy contest operators would pay the entire registration fee or renewal fee of \$5,000 each year and may be reimbursed for fees in excess of ten percent of entry fees collected in a given year. It is unknown how much would be reimbursed to the vendors. Refunds may need to wait until the following budget year as the department will have a very limited amount of general revenue appropriation available.

The department would need one Accounting Specialist I/II FTE and one Senior Office Support Assistant FTE to register the fantasy contest operators, review participation, and receive and analyze operator independent audits, as well as monitor operators for violations of the provisions of this legislation and impose penalties if needed. In addition, OA-ITSD would need to develop a basic registration/tracking database at an estimated cost of \$32,967. Ongoing yearly maintenance costs would be approximately \$6,758 in FY18 and \$6,927 in FY19.

Oversight notes that DIFP is not tasked with any responsibilities in this version of the proposal and will not show any income or costs to the DIFP.

Officials at the **Department of Public Safety - Gaming Commission (GAM)** assume this proposal will have an unknown negative fiscal impact on their organization.

As a new form of entertainment, it is assumed that fantasy contests would be in direct competition with state sanctioned gaming resulting in a potential reduction in revenue. The fiscal impact to regulate is unknown because it is unclear which governmental agency if any would have regulatory authority for this activity.

GAM assumes there will initially be two companies which will be interested in obtaining a license in Missouri. GAM also assumes there would be approximately 7 Key licensees, 4 Level I licensees, and 10 Level II licensees.

FISCAL DESCRIPTION (continued)

GAM assumes it will be necessary to have four new full-time positions for regulatory monitoring, tracking and auditing of fantasy contest activity in Missouri totaling approximately \$336,366 annually for salary and fringe benefits. The positions necessary would be an IT Manager (at \$72,768 annually), an Information Systems Auditor (at \$52,092 annually), a Financial Auditor (at \$50,040 annually), and an Auditor II (at \$55,416 annually). The background investigations would be absorbed by the current Missouri State Highway Patrol background investigators.

Oversight assumes the costs for these positions would be \$240,044 for FY17 (10 months), \$283,607 for FY18 and \$286,097 for FY19 based on a starting salary for all positions at two steps above the base salary. This decision reflects a study of actual starting salaries for new state employees and policy of the Joint Committee on Legislative Research.

§313.970 of this proposal states, “The commission shall assess an annual fee for licensed operators pursuant to this subsection in an amount to be set by the commission with a minimum of twenty-five thousand dollars. All application and renewal fees shall be deposited in the state treasury to the credit of the gaming commission fund to be administered pursuant to the provisions of section 313.835.”

GAM also assumes their organization would spend approximately \$81,000 the first year for equipment, supplies, and training of the four new employees and travel expenses to conduct background investigations and licensing activity for the two companies. The ongoing expenses would be approximately \$29,000 annually.

Based on the fees listed in the proposed legislation and the above assumed number of licensees, GAM would collect approximately \$220,500 the first year and then \$55,300 each year thereafter. The collection of these fees would be deposited in the state treasury to the credit of the Gaming Commission Fund (0286) to be administered pursuant to the provisions of section 313.835.

§313.835 states all revenue received by GAM should be deposited in the state treasury to the credit of the “Gaming Commission Fund” for the sole purpose of funding the administrative costs of the commission, subject to appropriation.

GAM states the fantasy contest industry generates approximately \$2,600,000,000 in wagers annually world-wide. The GAM assumes approximately 2% of those wagers are placed in Missouri. GAM assumes the companies withhold an average of 10% of the gross receipts from wagering which is what we consider the adjusted gross receipts and what the 21% tax is calculated on. As a result, this proposed legislation would generate approximately \$1,092,000 (\$2.6 billion x 2% x 21%) annually in taxes to be deposited in the state treasury to the credit of

FISCAL DESCRIPTION (continued)

the Fantasy Contest Fund. These monies will be kept separately from the General Revenue Fund as well as any other funds or accounts in the state treasury, and shall be used solely for education.

In response to a similar proposal from this year (SB 1131), officials at the **Department of Revenue (DOR)** assumed the proposal would have a negative fiscal impact on their organization requiring additional staff, equipment and expenses.

DOR noted Collections and Tax Assistance will see additional customer contact from registration and withholding calls. The section requires one Revenue Processing Technician I per 13,200 contacts to the registration section and two Tax Collection Technicians I per 15,000 contacts; one for the non-delinquent tax line and one for contacts annually on the delinquent tax line. Each technician requires CARE equipment and license.

This proposal imposes a 21% tax on adjusted gross receipts from daily fantasy sports games. The legislation deposits the proceeds from the tax into the "Fantasy Sports Fund".

Programming changes required to add the new fund and Excise Tax requires one Revenue Processing Technician I.

Oversight will not show a fiscal impact for the new positions of two Revenue Processing Technicians I and two Tax Collection Technicians I. Oversight assumes, DOR can absorb the costs related to these new positions. If necessary DOR, could request additional funding through the appropriation process.

§ 313.960.2 of this proposal states, "Each licensed operator shall withhold for state income tax purposes from any prizes awarded of twelve hundred dollars or more an amount equal to four percent of the prize."

Oversight will show an unknown positive fiscal impact to DOR for the state income tax to be withheld at 4% on all prizes awarded of \$1,200 or more.

Oversight will show a net zero fiscal impact to the Fantasy Sports Fund based on the amount of \$1,092,000 (21% tax to be collected on gross receipts) will be deposited into this fund and used solely for education resulting in a net zero impact.

Officials at the **Lottery Commission (LOT)** assume this proposal will have an unknown negative fiscal impact on their organization.

The proposal legalizes fantasy sports betting which competes with the sale of Lottery products. Lottery proceeds net of prizes and administrative expenses are currently appropriated solely for

ASSUMPTION (continued)

public institutions of elementary, secondary and higher education. Individuals who might otherwise play the Missouri Lottery but choose to play fantasy sports instead divert Lottery proceeds funding away from elementary, secondary and higher education. The resulting shortfall in elementary, secondary and higher education funding would have to be absorbed with General Revenue funding, negatively impacting Total State Revenue.

Oversight will not show a fiscal impact to the Lottery based on their assumption.

Officials at the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources. If the proposal results in a significant increase in cases, will make a request for additional appropriations.

Officials at the **Office of State Courts Administrator, State Public Defender's Office** and **Office of Prosecution Services** each assume this proposal will not have a fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
Revenue §313.960.2 - State Income Tax Withheld on Prizes	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
FANTASY SPORTS FUND			
<u>Revenue</u> - §313.980 - 21% of Gross Receipts	\$1,092,000	\$1,092,000	\$1,092,000
<u>Costs</u> - §313.980.3 - Education Funding	(\$1,092,000)	(\$1,092,000)	(\$1,092,000)
ESTIMATED NET EFFECT ON FANTASY SPORTS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2017 (10 Mo.)	FY 2018	FY 2019
GAMING COMMISSION FUND			
<u>Revenue</u> - §313.970			
Licensing Fees	\$220,500	\$55,300	\$55,300
<u>Costs</u> - Regulatory Monitoring			
Personnel (4 FTE)	(\$156,810)	(\$190,054)	(\$191,954)
Fringe Benefits	(\$83,234)	(\$93,553)	(\$94,143)
Equipment and Expense	(\$81,026)	(\$28,827)	(\$28,827)
Total Costs	<u>(\$321,070)</u>	<u>(\$312,434)</u>	<u>(\$314,924)</u>
FTE Change - GAM	4 FTE	4 FTE	4 FTE
NET EFFECT ON GAMING COMMISSION FUND	<u>(\$100,570)</u>	<u>(\$257,134)</u>	<u>(\$259,624)</u>
Net FTE Change - GAM	4 FTE	4 FTE	4 FTE

<u>FISCAL IMPACT - Local Government</u>	<u>FY 2017</u> (10 Mo.)	<u>FY 2018</u>	<u>FY 2019</u>
SCHOOLS			
Income - Schools and Education Funding from gross receipts tax	<u>\$1,092,000</u>	<u>\$1,092,000</u>	<u>\$1,092,000</u>
NET EFFECT ON SCHOOLS	<u>\$1,092,000</u>	<u>\$1,092,000</u>	<u>\$1,092,000</u>

FISCAL IMPACT - Small Business

Small business Fantasy Sports Contest operators could be impacted by this proposal.

FISCAL DESCRIPTION

This act is known as the "Missouri Daily Fantasy Sports Consumer Protection Act." Daily fantasy sports games are defined in the act as games of any duration where a player competes against other players or a target score as the manager of an imaginary team of athletes, uses statistics from real-world sporting events, plays for a predetermined prize, and pays a charge or fee to participate.

Under this act the Missouri Gaming Commission will provide licenses for the operation of websites engaged in daily fantasy sports games in Missouri. The licensed entity must ensure that the website does not allow a simulated sports team to be based on the current membership of a professional or amateur sports team, that prizes are made known to competitors before the contest, that the value of a prize is not based on the amount of players or the amount of fees contributed by players, and that the winning outcome is not based on score, point spread, or performance of a single team or based solely on performance of an individual athlete in a single sporting event.

Licensed operators must hold amounts for their players in trust and must post procedures on their website that will prevent unauthorized withdrawals or commingling of the funds and provide procedures for a player to report a compromised account. Licensed operators may not issue credit to players and may not allow multiple accounts for one player.

Licensed operators shall verify players' states of residence and that players are over 21 - the legal age of participation in Missouri. Licensed operators shall maintain and enforce lists of disassociated persons and exclusion lists. Licensed operators are subject to advertising restrictions.

Persons associated with licensed operations may not disclose proprietary or nonpublic information to individuals who are eligible to participate in fantasy sports games. Licensed operators shall withhold an amount equal to 4% of prizes over \$1,200 paid out to players in Missouri for income tax purposes.

A person or entity wishing to operate an authorized website under this section must provide a bond to the state treasurer in an amount equal to \$50,000 or \$15,000 per person that will be investigated, whichever is greater. The first year's license lasts for a period of one year, subsequent licenses last for 4 years. The annual fee for licensed operators shall be at least \$25,000 payable to the Gaming Commission Fund.

Licensed operators are subject to a tax equal to 21% on all adjusted gross receipts received from Missouri residents. This amount must be paid monthly and will be placed in the Fantasy Sports Fund. The Fantasy Sports Fund shall be used solely for funding Missouri public schools.

FISCAL DESCRIPTION (continued)

Licensed operators must conduct and pay for an annual independent audit to ensure compliance with this act.

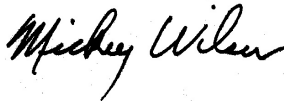
Documents and information provided to the commission are closed records, but certain information must be disclosed to the public based on a written request. The commission shall oversee all licensed operators and has certain investigatory, licensing, and rule-making powers under this act.

This act changes definitions under the criminal code to include operating an unlicensed daily fantasy sports game under the definition of "advance gambling activity". The definition of "gambling" will now include participating in an unlicensed daily fantasy sports game.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance, Financial Institutions, and Professional Registration
Department of Revenue
Department of Public Safety - Gaming Commission
Lottery Commission
Office of State Courts Administrator
Attorney General's Office
State Public Defender's Office
Office of Prosecution Services



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