

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1281-06
Bill No.: SCS for SB 546
Subject: Gambling; Public Safety Department; Crimes and Punishment.
Type: Original
Date: March 30, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Gaming Proceeds for Education	(\$438,716)	(\$495,322)	(\$507,879)
General Revenue	(Under \$100,000)	(Under \$100,000)	(Under \$100,000)
Total Estimated Net Effect on <u>All</u> State Funds	(\$438,716) to (\$538,716)	(\$495,322) to (\$595,322)	(\$507,879) to (\$607,879)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 8 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Public Defender** assumes that existing staff could provide representation for those cases arising where indigent persons were charged with gaming corruption - a D Felony. However, passage of more than one similar bill would require the State Public Defender System to request increased appropriations to cover cumulative cost of representing the indigent accused in the additional cases.

Officials from the **Office of the State Courts Administrator, Office of the Attorney General, Department of Revenue** and the **Department of Public Safety - Missouri Highway Patrol** assume the proposal would not fiscally impact their respective agencies.

In response to similar legislation from this year, officials from the **Office of Prosecution Services** assumed that costs arising as a result of this proposal could be absorbed with existing resources.

In response to similar legislation from this year, officials from the **Department of Corrections (DOC)** stated they could not predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY99 average of \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (FY99 average of \$2.47 per offender, per day).

The following factors contribute to DOC's minimal assumption:

- DOC assumed the narrow scope of the crime will not encompass a large number of offenders
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Oversight assumes that the conviction and incarceration of only one person would create a minimal fiscal impact of less than \$100,000 annually.

ASSUMPTION (continued)

Officials from the **Office of Administration** state this proposal should not result in additional costs or savings to the Office of Administration. There would be impact on total state revenue.

Officials from the **Office of Secretary of State (SOS)** assume there would be costs due to additional publishing duties related to the Missouri Gaming Regulatory Board's authority to promulgate rules, regulations, and forms. SOS estimates the division could require approximately 154 new pages of regulations in the Code of State Regulations at a cost of \$27.00 per page, and 231 new pages in the Missouri Register at a cost of \$23.00 per page. Costs due to this proposal would be \$9,471, however, the actual fiscal impact would be dependent upon the actual rule-making authority and may be more or less. Financial impact in subsequent fiscal years would depend entirely on the number, length, and frequency of the rules filed, amended, rescinded, or withdrawn. SOS does not anticipate the need for additional staff as a result of this proposal; however, the enactment of more than one similar proposal may, in the aggregate, necessitate additional staff.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Missouri Gaming Commission (GAM)** state this proposal would not likely result in additional fiscal expense to their agency. However, GAM believes the new Missouri Gaming Regulatory Board would likely require eleven FTE to implement the duties outlined in this proposal. The GAM assumes the new commission will require 11 FTE along with appropriate expenditures as follows:

PERSONAL SERVICE (FTE)

3 Board Members (at \$91,185 annually)	\$273,555	
1 Administrator (at \$79,416 annually)	\$ 79,416	
1 Public Infm. Adm. (at \$47,052 annually)	\$ 47,052	
1 Legal Counsel (at \$40,000 annually)	\$ 40,000	
1 Adm. Assistant (at \$35,000 annually)	\$ 35,000	
1 Executive I (at \$30,204 annually)	\$ 30,204	
1 Personnel Officer (at \$37,488 annually)	\$ 37,488	
2 Clerk Typists IIs (each at \$20,472 annually)	<u>\$ 40,944</u>	
Total FTE 11		\$583,659

FRINGE BENEFITS

\$583,659 PS @ 30%		\$175,097
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ASSUMPTION (continued)

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2,200 sq. ft. x 11 FTE = 2,200 x 11.80 \$ 21,240

UTILITIES

2,200 sq. ft. @ \$2.60 sq. ft \$ 4,680

ONE - TIMES

Office furniture and equipment

5 FTE @ \$7,130 \$ 35,650

6 FTE @ \$5,000 \$ 11,000

Total \$ 45,650

ON-GOING

Expense and Equipment

5 FTE @ \$1,500 \$ 7,500

6 FTE @ \$1,000 \$ 6,000

Total \$ 13,500

TOTAL ESTIMATED EXPENDITURES

\$843,826

Oversight assumes that since the members of the Missouri Gaming Regulatory Board will not be otherwise employed during his or her tenure, that these positions will be full time positions with appropriate salaries. Oversight assumes these positions will be paid either directly or indirectly from the Gaming Proceeds for Education Fund. Oversight assumes the three new board members will require a new Clerk Typist II and an Administrative Assistant, but will be able to shift the personnel in the Gaming Commission currently assigned to the enforcement duties to the new Missouri Gaming Regulatory Board. Oversight assumes state government will only grow a net 5 FTE from this proposal and that a shift of resources may occur between the Missouri Gaming Commission and the newly created Missouri Gaming Regulatory Board. Oversight assumes the new board and staff will require a location other than the building(s) that the Missouri Gaming Commission currently occupies.

This substitute caps the number of slot machines at a gambling boat at 1,900. According to the Missouri Gaming Commission's reports, the 9 properties (12 boats) in Missouri had a total 15,115 slot machines in operation in January 2001. There were no properties having more than this total (or properties with two boats having more than 3,800 total slot machines). Ameristar Casino in St Charles (formerly St. Charles Station) was the closest with 1,849. Therefore, Oversight assumes part of the proposal will not fiscally impact the state.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
GAMING PROCEEDS FOR EDUCATION			
<u>Costs - Missouri Gaming Regulatory Board</u>			
Personal Service (5 FTE)	(\$281,044)	(\$345,684)	(\$354,326)
Fringe Benefits	(\$93,672)	(\$115,216)	(\$118,097)
Expense and Equipment	<u>(\$64,000)</u>	<u>(\$34,422)</u>	<u>(\$35,456)</u>
<u>Total Costs - Missouri Gaming Regulatory Board</u>	(\$438,716)	(\$495,322)	(\$507,879)

GENERAL REVENUE FUND

<u>Costs - Department of Corrections incarcerations and/or probation</u>	(Under \$100,000)	(Under \$100,000)	(Under \$100,000)
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<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

Under current law, the Missouri Gaming Commission has authority over the economic development aspects, licensing, regulation and regulatory enforcement of excursion gambling boats and gaming in Missouri. This act creates the Missouri Gaming Regulatory Board which will work in conjunction with the Missouri Gaming Commission in the licensing, regulatory and enforcement aspects of the industry.

DESCRIPTION (continued)

CREATION OF THE MISSOURI GAMING REGULATORY BOARD

The Board is composed of three members appointed by the governor for staggered three-year terms and is assigned to the Department of Public Safety. Upon referral by the Commission, the Board will conduct suitability investigations of applicants for excursion boat licenses, gaming operator licenses, supplier licenses and certain gaming-related occupational licenses. The Commission will continue to perform the function of choosing from among competing applicants and ultimately issuing such licenses, but either the Board or the Commission may deem an applicant unsuitable for a license.

The Board will also take over the enforcement and sanctioning/disciplining aspects of excursion gambling boats and gaming. The Board will be empowered to enforce applicable laws, rules and regulations and the Board may restrict, suspend or revoke the license of, or otherwise sanction, licensees for any of a number of specified acts, such as: dealing with unlicensed suppliers, engaging in fraud, deception, misrepresentation, extortion or bribery, failing to cooperate with a board investigation, or failing to appear and provide testimony to the board. The Board is authorized to investigate violations and has both power of subpoena and authority to enter into agreements with other investigatory agencies (e.g. IRS and Mo. A.G.) to aid in its investigations.

The Board will create and enforce a code of ethics for its members and employees and the act contains strict restrictions prohibiting blood or business relationships between and among Board members, applicants, licensees, suppliers, investigatory authorities, appointed officials and others.

NEW CRIME OF "GAMING CORRUPTION"

This proposal creates the crime of "gaming corruption", a Class D felony. Any person convicted of this crime is barred for life from Missouri gambling boats. A person commits the crime if such person performs any of several enumerated acts for a prohibited purpose. The prohibited purposes include:

1. Influencing a decision or investigation of the Board or the Commission;
2. Influencing the outcome of any gambling game; or
3. Profiting from the influence of any Board or Commission decision or the outcome of any gambling game.

DESCRIPTION (continued)

The prohibited acts include:

1. Entering into a gaming-related or profiteering contract with a "government official" (i.e. a Board or Commission member or employee, a public official of the state or of a city or county, a highway patrolman or assistant attorney general assigned to investigate/regulate gaming, or a person who was in any such capacity within the last 2 years);
2. Employing or offering employment to a government official;
3. Selling or giving a gaming-related business interest to a government official;
4. Giving any gift or gratuity to a government official;
5. Engaging in ex parte communications with a government official; or
6. Engaging in any of the acts prohibited above while being a government official, or within 2 years after being a government official.

EXISTING MISSOURI GAMING COMMISSION

This proposal curtails the jurisdiction of the existing Commission. The Commission will continue to issue all licenses and will continue to have regulatory authority over the operational aspects and all taxing and economic development aspects of excursion gambling boats and gaming. The Commission's former authority in the areas of investigation and sanctioning/disciplining of licensees, however, is shifted to the new Board. The commission continues to have subpoena power and authority to investigate violations of its rules and regulations concerning operation of excursion gambling boats (e.g. cruising and docking restrictions) and gaming (e.g. loss limits, wagering restrictions, approval of games). The commission also continues to collect and distribute excursion admission fees and continues to regulate the assessment, collection and disbursement of taxes on adjusted gross receipts from gambling games.

This proposal strengthens the subpoena power of the Commission and authorizes the Commission to prohibit any applicant for a license from beginning construction of a casino until such time as the Board has found the applicant to be suitable. The act also requires applicants for excursion gambling boat licenses to provide an affirmative action plan and to report on the effectiveness of the plan.

DESCRIPTION (continued)

The proposal provides that gaming-related licenses are a revocable privilege, not a vested right. It also clarifies the requirement that applicants and licensees cooperate with the Commission and the Board in the licensing process and in any investigations. The proposal requires the design and aesthetics of gambling boats to be consistent with the riverboat history of Missouri or of the home dock city or county.

The proposal also caps the number of excursion gambling boat licenses at 15 and caps the total number of slot machines which may be located on any single excursion gambling boat at 1,900. The Commission may require gambling boat licensees and gaming equipment suppliers to remove any slot machines that are in excess of the maximum number allowed. Additionally, the Board may restrict, suspend or revoke the license of any licensee who operates an excursion gambling boat with a number of slot machines in excess of the maximum number allowed.

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

SOURCES OF INFORMATION

Missouri Gaming Commission
Office of the Secretary of State
Office of Administration
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
Department of Corrections
Department of Revenue
Office of the Attorney General
Department of Public Safety - Missouri Highway Patrol



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Director

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