

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7076**

**BILL NUMBER: SB 405**

**NOTE PREPARED: Jan 6, 2010**

**BILL AMENDED:**

**SUBJECT:** Gaming Matters.

**FIRST AUTHOR:** Sen. Alting

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Land-Based Casinos:* The bill permits a licensed owner to submit to the Gaming Commission a plan for the construction of an inland casino. It specifies criteria for evaluating a submitted plan. It also imposes a \$50,000,000 relocation fee but permits a licensed owner who operates two riverboats in Gary to relinquish the second license in lieu of paying the fee.

*Permanently Moored Casinos:* The bill permits a licensed owner to convert a riverboat into a permanently moored vessel without propulsion or navigation equipment.

*French Lick Casino Admissions Tax:* The bill reduces the admissions tax imposed at the French Lick riverboat from \$4 to \$3. It eliminates admissions tax distributions to the Orange County Development Commission and the West Baden Springs Historic Hotel Preservation and Maintenance Fund (Fund). It adjusts the amounts paid to other recipients of the admissions tax collected at French Lick. It also updates provisions referring to the French Lick Casino to conform to recent improvements to the casino.

*West Baden Springs Historic Hotel Preservation and Maintenance Fund:* The bill permits the operating agent to submit claims for the reimbursement of certain expenditures for the maintenance of the West Baden Springs Hotel and its surrounding grounds. It requires the Department of Natural Resources to pay the claims. It also annually appropriates interest accruing to the fund for the purpose of paying claims submitted by the operating agent and makes technical corrections.

*Card Tournament/Gaming Event Locations:* The bill authorizes a licensed owner or an operating agent to conduct card tournaments or other large gaming events in a hotel or other facility owned or leased by the licensed owner or operating agent.

*Alcohol Requirements:* The bill eliminates certain restrictions under which the holder of a gaming permit may pay for complimentary drinks at certain events. It also requires the Alcohol and Tobacco Commission to adopt rules allowing gaming site permit holders to engage in certain trade practices and marketing activities.

*Local Development Agreements:* The bill requires certain disclosures from persons who receive payments pursuant to a development agreement. It also provides that the right to inspect and copy certain disbursement information does not apply if the Attorney General permits the person filing an annual report containing the information to keep the information confidential.

*Racino Revenue Set-Aside for Horse Racing:* The bill removes inflationary adjustments to the amount of slot machine revenue required for certain horse racing purposes.

*Other:* The bill removes obsolete provisions concerning the original riverboat licensing process. It also repeals an obsolete definition.

**Effective Date:** Upon passage; July 1, 2010; January 1, 2011.

**Explanation of State Expenditures:** *Indiana Gaming Commission (IGC):* The provisions of the bill dealing with relocation of gaming operations from riverboat casinos to inland casinos, conversion of riverboat casinos to permanently moored vessels, and conducting card tournaments and other gaming events outside of casinos will result in additional administrative responsibilities for the IGC. The fiscal impact that might arise from these new responsibilities is indeterminable. However, any additional expenses would be paid from riverboat wagering tax revenue annually appropriated to the IGC for administrative purposes. (Note: Current statute provides that sufficient funds are annually appropriated to the IGC from riverboat wagering tax revenue deposited in the State Gaming Fund to administer the riverboat gambling laws.) In FY 2009, this distribution totaled about \$2.3 M. The 2009-2011 biennial budget bill appropriates \$3.5 M annually in FY 2010 and FY 2011 from the State Gaming Fund to the IGC for administrative purposes.

*West Baden Springs Historic Hotel Preservation and Maintenance Fund:* The bill makes several changes relating to the disposition of interest earnings from the West Baden Springs Historic Hotel Preservation and Maintenance Fund beginning in FY 2010. It is estimated that interest accruing to the fund annually could total \$60,000 in FY 2010 and \$300,000 in FY 2011. This assumes an average return on principal in the fund of about 0.4% in FY 2010 and 1.6% in FY 2011.

Under current statute, the fund receives 19% of the riverboat wagering tax and 13% of the riverboat admissions tax paid by the French Lick Casino. The fund is administered by the Department of Natural Resources (DNR). Current statute authorizes the General Assembly to appropriate interest in the fund to the DNR only to: (1) maintain the parts of the West Baden Springs Hotel that were restored before July 1, 2003; and (2) maintain the grounds surrounding the West Baden Springs Hotel. The bill specifies that interest accruing to the fund is annually appropriated to the DNR to pay maintenance expense claims by the owner of the West Baden Springs Hotel. The allowable maintenance expenses are as specified under current statute. The bill also requires DNR to promptly pay the claims of the hotel owner to the extent interest is available in the fund. The bill also prohibits interest accruing to the fund from being withheld, transferred, assigned, or reassigned to another purpose under any other state law. Cash and investment assets in the fund totaled \$16.6 M at the close of FY 2009.

*Local Development Agreements:* The provisions of the bill requiring recipients of local development agreement payments to annually report payment information to the Attorney General will result in additional

administrative responsibilities. The Attorney General’s Office should be able to implement these provisions within their existing level of resources.

The bill requires recipients (public or private) of local development agreement payments to annually report to the Attorney General information on payment amounts received and disbursements of payment amounts exceeding \$5,000. The report must be filed before March 1<sup>st</sup> each year. The bill allows the Attorney General, upon request of a payment recipient filing a report, to keep confidential information on disbursements relating to certain types of economic development negotiations. The bill also provides that this information is exempt from the Public Records Law.

Current statute requires riverboat casino owners and the operating agent of the French Lick Casino to annually report to the Indiana Gaming Commission the total dollar amounts and recipients of development agreement payments. Economic development payments by the riverboat casinos totaled \$119.7 M in CY 2008, with the cumulative total from CY 2003 to CY 2008 equal to \$711.6 M.

**Explanation of State Revenues: Summary:** The bill makes a number of changes to state law relating to the riverboat casinos and racinos. The estimated impact on state revenue from changes to the riverboat admissions tax paid by the French Lick Casino and the distribution of the racino payment of slot machine revenue to horse racing is summarized in the table below. Other provisions of the bill either are expected to have no fiscal impact or the potential fiscal impact is indeterminable at this time.

Recipient	FY 2011	FY 2012
State General Fund	(\$ 1.0 M)	(\$2.0 M)
Indiana Economic Development Corporation	(\$69,000)	(\$92,000)
West Baden Springs Historic Hotel Preservation and Maintenance Fund	(\$448,000)	(\$598,000)

**Background Information: Land-Based Casinos -** The bill allows a riverboat casino owner to construct and relocate gaming operations to an inland casino upon approval of an inland casino plan by the IGC. Under the bill, relocation to an inland casino is limited to locations within: (1) Gary, Hammond, East Chicago, Michigan City, Evansville, Lawrenceburg, and Rising Sun for riverboat casinos currently docked in those cities; (2) Posey Township of Harrison County for the riverboat casino currently docked in that county; and (3) Jefferson Township of Switzerland County for the riverboat casino currently docked in that county.

The bill requires an owner’s inland casino plan to include the proposed design of the casino and any related facilities and amenities. The bill also specifies standards by which the IGC must evaluate an inland casino plan. If the plan is approved by the IGC, the owner must pay a \$50 M relocation fee within 90 days after the approval date. The revenue from the relocation fee is to be distributed to the state General Fund. The potential fiscal impact of riverboat casinos around the state relocating to land-based operations is indeterminable and would depend on various factors, including ownership, facility attributes, market factors, capital availability, and the relocation fee. Further, it is indeterminable when a relocation plan may be approved and a relocation fee paid.

The bill includes a special provision for payment of the relocation fee for the Gary casinos. If the same owner operates both riverboat casinos in Gary (as is the current case), the owner is allowed to relinquish one of the riverboat licenses to the state in lieu of paying the \$50 M relocation fee. This scenario could have several

state and local revenue implications.

(1) Assuming the gaming activity currently taking place at Majestic Star I and Majestic Star II shifts to a single land-based casino in Gary operated under a single casino license, the combined AGR would generate more wagering tax revenue from the graduated tax rate structure than is currently generated separately by the two riverboats.

(2) Gary would experience a reduction in wagering tax revenue currently received from the two riverboat casinos. The elimination of one casino license would eliminate a wagering tax distribution to Gary relating to that license. In addition, the wagering tax distribution to Gary from the land-based casino would still be subject to the current annual distribution cap for that particular license. Current statute unchanged by the bill requires 25% of the wagering tax paid by each casino to be distributed to Gary. However, the annual distributions can't exceed the FY 2002 distributions amounts - equal to \$6,074,058 for tax paid by Majestic Star I and \$6,195,567 for tax paid by Majestic Star II. In FY 2009, the distribution of wagering tax from Majestic Star I reached the cap; however, collections from Majestic Star II were insufficient to reach the cap. The distribution of tax paid by Majestic Star II totaled only for \$5,211,566.

(3) Admission tax revenue to Gary, Lake County, the Lake County CVB, the Northwest Indiana Law Enforcement Academy, the State Fair Commission, and the Division of Mental Health, and annual admission tax replacement payments to these entities from the state General Fund, could be affected with the elimination of one casino license in Gary and relocation of the remaining license to a land-based casino. Current statute distributes each \$3 admission tax paid by Majestic Star I and Majestic Star II in the following amounts: \$1 to Gary, \$1 to Lake County, \$0.09 to the Lake County CVB, \$0.01 to the Northwest Indiana Law Enforcement Academy, \$0.15 to the State Fair Commission, and \$0.10 to the Division of Mental Health. Since the admission tax base declined by roughly 50% when dockside gaming was instituted, each entity was guaranteed to annually receive an amount equal to the FY 2002 distribution amount. A transfer is made annually from the state General Fund to each entity to replace the shortage in admission tax collections distributed to each entity. The FY 2002 distribution amount is also a limit on the amount that each entity may receive each year. The distribution guarantees/limits applicable to admission tax paid by each Gary casino, the FY 2009 distribution amounts, and the replacement payment amounts are summarized in the table below. If one of the Gary casino licenses is eliminated, the state would have to replace all the reductions in admission tax revenue from that casino. Conversely, assuming that the gaming activity currently taking place at Majestic Star I and Majestic Star II shifts to a single land-based casino in Gary operated under a single casino license, the replacement payments for admission tax shortages from that casino would decline.

<b>FY 2009 Admission Tax Distributions From Majestic Star I and Majestic Star II in Gary</b>			
	<b>Annual Guarantee Amount/Limit*</b>	<b>FY 2009 Distribution</b>	<b>Replacement Payment**</b>
<b>Majestic Star I Admission Tax</b>			
Gary	\$3,126,235	\$1,427,530	\$1,698,705
Lake County	3,126,235	1,427,530	1,698,705
Lake County CVB	281,359	128,478	152,881
NW IN Law Enforcement Academy	31,262	14,274	16,988
State Fair Commission	468,936	214,130	254,806
Division of Mental Health	312,621	142,752	169,869
<b>Majestic Star II Admission Tax</b>			
Gary	\$3,186,167	\$1,427,530	\$1,758,637
Lake County	3,186,167	1,427,530	1,758,637
Lake County CVB	286,752	128,478	158,275
NW IN Law Enforcement Academy	31,861	14,274	17,588
State Fair Commission	477,926	214,130	263,796
Division of Mental Health	318,614	142,752	175,862
*Equal to the FY 2002 distribution of admission tax to each entity.			
**Payment made prior to September 15 <sup>th</sup> in the fiscal year following the fiscal year of the shortage.			

*French Lick Riverboat Admissions Tax* - The bill makes the following changes: (1) reduces the riverboat admissions tax paid by the French Lick Casino from \$4 per admission to \$3 per admission beginning in FY 2011; (2) eliminates distributions of admissions tax revenue from the French Lick Casino to the Orange County Development Commission and the West Baden Springs Historic Hotel Preservation and Maintenance Fund beginning with admissions tax collected in FY 2011; and (3) increases the distribution percentages of the other entities receiving admissions tax revenue from the French Lick Casino beginning with admissions tax collected in FY 2011.

The reduction in the admissions tax rate for the French Lick Casino is estimated to reduce revenue from the tax by about \$862,000 in FY 2011 and \$1.15 M in FY 2012. (Note: Due to the one-quarter lag between collection and distribution of admissions tax revenue, the rate reduction will affect quarterly revenue distributions for three quarters in FY 2011, with the full-year impact beginning in FY 2012.) The bill would mitigate the revenue impact of the tax rate reduction to most of the recipients of the admission tax revenue by eliminating the distributions to the Orange County Development Commission and the West Baden Springs Historic Hotel Preservation and Maintenance Fund and adjusting the remaining distributions. The distribution changes and their estimated impacts are summarized in the table below. The revenue loss estimate is based on the December 15, 2009, Revenue Technical Committee forecast.

Revenue Impact of French Lick Casino Admission Tax Changes				
Recipient	Admissions Tax Distribution		Impact	
	Current (\$4)	Proposed (\$3)	FY 2011	FY 2012
Orange County, Dubois County, Crawford County*	22%	29.33%	0	0
Orleans	5%	6.67%	0	0
Paoli	5%	6.67%	0	0
French Lick, West Baden Springs**	20%	26.67%	0	0
Orange County Development Commission	10%	0%	(\$345,000)	(\$460,000)
West Baden Springs Historic Hotel Preservation and Maintenance Fund	13%	0%	(\$448,000)	(\$598,000)
Indiana Economic Development Corporation	25%	30.66%	(\$69,000)	(\$92,000)
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>(\$862,000)</b>	<b>(\$1,150,000)</b>

\*This distribution is split 54.5% to Orange County and 22.75% each to Dubois County and Crawford County.  
\*\*This distribution is split equally between French Lick and West Baden Springs.

The West Baden Springs Historic Hotel Preservation and Maintenance Fund is administered by DNR. Current statute authorizes the General Assembly to appropriate interest in the fund to the DNR only to: (1) maintain the parts of the West Baden Springs Hotel that were restored before July 1, 2003; and (2) maintain the grounds surrounding the West Baden Springs Hotel. The fund also receives 19% of the riverboat wagering tax paid by the French Lick Casino. Cash and investment assets in the fund totaled \$16.6 M at the close of FY 2009.

*Racino Payment of Slot Machine Revenue to Horse Racing:* The racinos are required to pay 15% of their annual slot machine AGR to the following purposes: (1) the state Gaming Integrity Fund; (2) the state Breed Development Funds; (3) private horsemen's associations; and (4) horse racing purses. It is estimated this 15% set-aside could total \$65.2 M in FY 2011 and \$67.4 M in FY 2012. The bill strikes a provision in current statute that could, in any fiscal year, direct a portion of this set-aside to the state General Fund and not to the four purposes described above. Money from the 15% set-aside must be distributed to the state General Fund beginning in FY 2010, if 15% of a racino's slot machine AGR in a fiscal year exceeds the 15% payment made by the racino in the prior fiscal year increased by the inflation rate. If so, the excess is transferred to the state General Fund.

By striking this provision, it is estimated that the bill could reduce revenue from the 15% set aside to the state General Fund by \$1 M in FY 2011 and \$2 M in FY 2012. (Note: No transfer to the state General Fund from the 15% set aside under current statute is expected in FY 2010.)

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** The bill: (1) reduces the riverboat admissions tax rate paid by the French Lick Casino from \$4 per admission to \$3 per admission; and (2) makes changes to the distributions of riverboat admissions tax revenue from the French Lick Casino. (See *Explanation of State Revenues* for a

summary of local fiscal impacts and background discussion of tax and distribution changes.)

**State Agencies Affected:** IGC; IEDC; DNR; ATC; Attorney General.

**Local Agencies Affected:** Recipients of riverboat admissions tax from the French Lick Casino.

**Information Sources:** State Auditor's revenue trial balance and object trial balance for FY 2009; Revenue Technical Committee Forecast (December 15, 2009).

**Fiscal Analyst:** Jim Landers, 317-232-9869.