

**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: Feb 1, 2010

BILL AMENDED: Feb 1, 2010

SUBJECT: Gaming Matters.

FIRST AUTHOR: Sen. Alting

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) *Permanently Moored Casinos:* The bill permits a licensed owner to convert a riverboat into a permanently moored vessel without propulsion or navigation equipment. It provides for submission of plans and commission approval of the construction of a permanently moored vessel to replace a licensed owner's self-propelled excursion boat. It also provides that a licensed owner converting a self-propelled excursion boat into a permanently moored vessel is not required to substantially alter the marine structural and life safety systems of the excursion boat if the excursion boat was in service before January 1, 2010.

Racino Revenue Set-Aside for Horse Racing: The bill provides that slot machine revenue devoted to horse racing is capped at the lesser of: (1) 15% of a racino's adjusted gross receipts; or (2) the amount devoted in the previous state fiscal year multiplied by 1.03. (Current law caps the amount at the lesser of: (1) 15% of a racino's adjusted gross receipts; or (2) the amount devoted in the previous state fiscal year increased by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.)

French Lick Casino Wagering Tax: The bill provides that riverboat wagering taxes previously transferred to the Orange County Convention and Visitors Bureau must be transferred to the Orange County Development Commission and the Indiana Economic Development Corporation.

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.

Casino/Racetrack Ownership: The bill allows a permit holder to acquire a second pari-mutuel horse track. It provides that a person: (1) may have up to a 100% interest in not more than two casino licenses; and (2) may not have an ownership interest in more than two casino licenses. It also defines "casino license" as a riverboat owner's license or a license to operate slot machines at a pari-mutuel horse track.

Advance Deposit Wagering: The bill authorizes advance deposit wagering on horse racing.

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.

Other: The bill removes obsolete provisions concerning the original riverboat licensing process. It also repeals an obsolete definition and makes technical corrections.

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 conversion of riverboat casinos to permanently moored vessels, construction of 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.

Indiana Horse Racing Commission: The bill authorizes account wagering (defined by the bill as "advance deposit wagering") to be conducted in Indiana. Account wagering under the bill would allow a bettor who is an Indiana resident to open a wagering account with a secondary pari-mutuel organization (SPMO). Under the account wagering system, the bettor would be able to make wagers on Indiana or non-Indiana horse races from a location other than at Hoosier Park, Indiana Downs, or the five OTB facilities operated by the racetracks. The bettor could make the wagers with the SPMO in person, by telephone, or by other electronic means, with the bettor's wagering amounts being debited to the account and the bettor's winnings being credited to the account. The SPMO would take the wagers, retaining a percentage of the wagers, and pay a fee to Hoosier Park and Indiana Downs under a contract with the two racetracks.

Under the bill, an SPMO would be licensed by the Indiana Horse Racing Commission (IHRC) but does not have to be located within Indiana. In addition, the SPMO must have a single contract to operate with both Hoosier Park and Indiana Downs, and the contract must be approved by the IHRC. An SPMO must pay a nonrefundable \$5,000 fee to the IHRC to apply for an SPMO license. The bill also requires the SPMO to pay any investigative cost incurred by the IHRC that exceeds the \$5,000 application fee. The annual license renewal fee would be \$1,000. The bill will result in additional administrative responsibilities for the IHRC. Presumably, any additional administrative cost will be paid from application and license fees.

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 1st 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, the racinos, and wagering on horse races. The estimated impact on state revenue from changes to the distribution of the racino payment of slot machine revenue to horse racing, and the riverboat admissions tax and wagering tax paid by the French Lick Casino is summarized in the table below.

Account wagering on horse racing authorized by the bill could potentially displace wagering on live racing or simulcast racing at Hoosier Park, Indiana Downs, or OTBs that the racetracks operate. Since the wagers under the account wagering system are not subject to pari-mutuel taxes under the bill, this could reduce revenue from the pari-mutuel wagering tax and the satellite facility tax by an indeterminable amount.

Other provisions of the bill either are expected to have no fiscal impact or the potential fiscal impact is indeterminable.

Recipient	FY 2010	FY 2011	FY 2012
State General Fund	(\$440,000)	(\$ 1.6 M)	(\$2.4 M)
Indiana Economic Development Corporation	0	\$35,000	\$12,000
West Baden Springs Historic Hotel Preservation and Maintenance Fund	0	(\$448,000)	(\$598,000)

Background Information:

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 the 15% of the annual slot machine AGR could total \$65.2 M in FY 2011 and \$67.4 M in FY 2012.

The bill amends a provision in current statute that could annually direct a portion of this set-aside to the state General Fund and not to the four horse racing 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 percentage change in the CPI during the prior fiscal year. If so, the excess is transferred to the state General Fund. The bill eliminates the use of the CPI to inflate the prior fiscal year's payment and instead increases the prior year's payment by 3%. It is estimated that this change could reduce revenue from the 15% set-aside to the state General Fund by \$440,000 in FY 2010, \$1.6 M in FY 2011, and \$2.4 M in FY 2012.

French Lick Riverboat Wagering Tax - The bill makes the following changes:

(1) The bill shifts an estimated \$414,000 in annual wagering tax revenue from the Orange County Convention and Visitors Bureau (CVB) to the Orange County Development Commission. Currently, 16% of the wagering tax is distributed to French Lick and West Baden Springs. At least 12.5% of this distribution must be transferred to the Orange County CVB. This transfer is estimated to total about \$414,000 in FY 2011 and FY 2012. The bill requires this transfer instead to be made to the Orange County Development Commission beginning in FY 2011.

(3) The bill shifts an estimated \$104,000 in annual wagering tax revenue from the Orange County CVB to the Indiana Economic Development Corporation (IEDC). Currently, 0.5% of the wagering tax is distributed

directly to the Orange County CVB. This distribution is estimated to total about \$104,000 in FY 2011 and FY 2012. The bill requires this distribution instead to be made to the IEDC beginning in FY 2011.

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)
TOTAL	100%	100%	(\$862,000)	(\$1,150,000)

*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.

Advance Deposit Wagering - The bill authorizes account wagering (defined by the bill as "advance deposit wagering") to be conducted in Indiana. Under the bill, the wagering handle from account wagering would not be subject to the pari-mutuel wagering tax or pari-mutuel satellite facility tax. The extent to which the account wagering system may produce a net increase in wagering handle is unknown. However, any additional wagering handle would not be subject to parimutuel taxes. In addition, account wagering could potentially exacerbate the decline in taxable wagering handle and, as a result, parimutuel taxes from live and simulcast races at Hoosier Park, Indiana Downs, and the five OTB facilities the racetracks operate. The potential impact on revenue from pari-mutuel taxes is indeterminable.

The wagering handle in Indiana on live and simulcast races hit a high of \$189.7 M in CY 2005. Since then, the handle has declined by an average of 4.8% per year. Parimutuel taxes have declined by about the same percentage during this period. The pari-mutuel wagering tax is 2% of the wagering handle on live and simulcast races at the racetracks, and 2.5% on simulcast races at the OTB facilities. The satellite facility tax is 0.5% of the wagering handle on simulcast races at the OTB facilities. Approximately \$3.6 M in pari-mutuel wagering tax revenue was distributed to state funds in FY 2009, while distributions of revenue from the satellite facility tax totaled \$614,109.

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 and riverboat wagering 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; IHRC; Attorney General.

Local Agencies Affected: Recipients of riverboat admissions tax and wagering 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.