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**FISCAL IMPACT STATEMENT**

**LS 7076**

**BILL NUMBER: SB 405**

**NOTE PREPARED: Feb 18, 2010**

**BILL AMENDED: Feb 18, 2010**

**SUBJECT: Gaming Matters.**

**FIRST AUTHOR: Sen. Alting**

**FIRST SPONSOR: Rep. Crawford**

**BILL STATUS: CR Adopted - 2<sup>nd</sup> 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.

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

*Card Tournament Locations:* The bill authorizes a licensed owner or an operating agent to conduct card tournaments 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 provides that the Gaming Commission has continuous jurisdiction over development agreements, economic development payments, disbursements to third party recipients, and expenditures of third party recipients. It establishes reporting requirements for entities that receive economic development payments and third party recipients. It provides that reports are public records. It also grants subpoena power to the Gaming Commission in its exercise of jurisdiction over development agreements.

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

**Effective Date:** (Amended) Upon passage; July 1, 2010.

**Explanation of State Expenditures:** (Revised) *Indiana Gaming Commission (IGC):* The provisions of the bill dealing with conversion of riverboat casinos to permanently moored vessels, construction of permanently moored vessels, conducting card tournaments outside of casinos, and additional oversight of recipient spending and disbursement of local development payment money 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.

**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.

<b>Revenue Impact of French Lick Casino Admission Tax Changes</b>				
<b>Recipient</b>	<b>Admissions Tax Distribution</b>		<b>Impact</b>	
	<b>Current (\$4)</b>	<b>Proposed (\$3)</b>	<b>FY 2011</b>	<b>FY 2012</b>
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.

*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:** *Local Development Agreements:* The reporting requirements for entities receiving economic development payments from a riverboat casino owner or operating agent, or an affiliate of an owner or operating agent, will not affect local units because the bill excludes from the reporting requirement municipalities and local governmental units, entities, or instrumentalities that are required under current statute to submit an annual financial report to the State Board of Accounts. However, if a local unit is a third-party recipient of economic development payment money, it would have to submit the annual report required under the bill for third-party recipients.

**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.

**Local Agencies Affected:** Local units: (1) receiving riverboat admissions tax and wagering tax from the French Lick Casino; or (2) that are third-party recipients of economic development payment money from a riverboat owner or operating agent, or affiliate of an owner or operating agent.

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

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