

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1047 Slot machine gaming, as authorized by Section 23 of Article X of the State Constitution
SPONSOR(S): Jobs & Entrepreneurship Council, Seiler
TIED BILLS: **IDEN./SIM. BILLS:** CSSB 1038 & 218

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Business Regulation</u>	<u>7 Y, 2 N</u>	<u>Livingston</u>	<u>Liepshutz</u>
2) <u>Jobs & Entrepreneurship Council</u>	<u>10 Y, 4 N, As CS</u>	<u>Livingston</u>	<u>Thorn</u>
3) <u>Policy & Budget Council</u>		<u>Voyles</u>	<u>Hansen</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Article X, Section 23 of the State Constitution authorizes the operation of slot machines at certain pari-mutuel facilities in Broward and Miami-Dade counties if approved by local referendum. Broward County has approved the use of slot machines.

Chapter 551, F.S., sets forth the regulatory structure for the operation of slot machines by the Division of Pari-mutuel Wagering (Division) in the Department of Business and Professional Regulation (DBPR). The chapter authorizes slot machines, limits the number of machines that may be operated at a facility to no more than 1,500 per facility, limits hours of operation to 16 hours per day, prohibits the placement of ATM machines on the licensed premises, and imposes a flat tax of 50% on slot machine revenue. Taxes are to be used to supplement public education funding statewide. The CS:

Requires the slot machine licensee to create and file with the division a written policy for the implementation of a drug testing program;

Creates new language for temporary occupational licenses;

Provides that the \$3 million license fee is to be paid on the anniversary date of issuance of the initial license and annually thereafter;

Allows the division to issue a combination license for pari-mutuel and cardroom occupational licensees;

Provides that slot machine manufacturers and distributors may maintain slot machine storage and maintenance facilities in the county where the slot machine facility is located;

Provides that certified education facilities may maintain slot machines for purposes of education and licensure as slot machine technicians, inspectors or investigators;

Allows for 2000 slot machines in the slot machine licensee facility;

Provides that the hours of operation may be for a cumulative number of 18 hours per day during the week and 24 hours on the weekends and holidays;

Provides that automated teller machines are not allowed in the designated slot machine gaming areas;

Provides that a slot machine licensee may not cash checks except for employees; and

Allows slot machines to be linked and allows a progressive system within the facility.

Fiscal - The April 3, 2007 Revenue Estimating Conference (REC) adopted an annualized estimate of an increase of \$44.5 million to the Educational Enhancement Trust Fund and a \$3.3 million reduction to General Revenue for Fiscal Year 2007-08. There is an additional nonrecurring loss to General Revenue in Fiscal Year 2006-07 in the amount of an estimated \$9.0 million. The Jobs and Entrepreneurship Council provided an appropriation of \$241,547 to the Office of the State Attorney, 17th Judicial Circuit, for the addition of 1 Attorney and 2 Investigator positions for investigations and prosecutions related to gaming activities.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government; ensure lower taxes; safeguard individual liberty; promote personal responsibility; empower families; maintain public security:

The bill amends chapter 551, F.S., relating to slot machines to provide for additional regulation of slot machine gaming activities and gaming options.

B. EFFECT OF PROPOSED CHANGES:

Present situation

Article X, Section 23 of the State Constitution authorizes the operation of slot machines at certain pari-mutuel facilities in Broward and Miami-Dade Counties if approved by local referendum. Broward County has approved the use of slot machines. Chapter 551, F.S., sets forth the regulatory structure for the operation of slot machines by the Division within the DBPR.

The chapter authorizes slot machines, limits the number of machines that may be operated at a facility to no more than 1,500 per facility, and imposes a flat tax of 50% on slot machine revenue. Taxes are remitted weekly to be used to supplement public education funding statewide.

Slot machine gaming may be conducted up to 16 hours per day year-round. Players must be at least 21 years of age. Progressive games whereby slot machines in one or more facilities are linked and offer higher jackpots are prohibited. The payout rate per machine is required to be no less than 85 percent. The placement of ATM machines on the licensed premises is prohibited. The division is authorized to contract with an independent testing laboratory to ensure slot machines are operated in accordance with these and other requirements of this act.

The regulatory framework for entities involved in the operation of slot machine gaming is within regulatory responsibility of the Division in the DBPR. All regulation of slot machine gaming is preempted to the state. Authority is provided for a significant law enforcement presence through the Florida Department of Law Enforcement and local law enforcement agencies.

Effect of proposed changes

Section 1. Definitions

The bill amends s. 551.102(12), F.S., to exclude non-redeemable credits from the definition of "slot machine revenues." "Non-redeemable credits" will allow the slot machine licensee to offer free spins or free play credit to a patron of the slot machine facility. These credits have no cash value.

Section 2. Powers and duties of the division and law enforcement

The bill amends s. 551.103(1)(f), F.S., to clarify that the \$2 million bond should be paid to the Governor each year. It deletes language that would allow the bond amount to be increased.

The bill creates s. 551.103(j), F.S., to provide that the division must have procedures for requiring slot machine licensees to implement and establish drug testing programs for all slot occupational licensees.

Section 3. License to conduct slot machine gaming

The bill creates s. 551.104(4)(i)6., F.S., to require that the slot machine licensee create and file with the division a written policy for the implementation of a drug testing program which includes but is not

limited to requiring each employee to sign an agreement that he or she understands that the slot machine facility is a drug free work place.

Section 4. Temporary license

The bill amends s.551.1045, F.S., to delete obsolete language referring to temporary slot machine licenses and creates new language for temporary occupational licenses. It provides that the division may issue a temporary occupational license upon proof of no criminal convictions. The license remains valid until the division grants the license or notifies the applicant of its intent to deny licensure.

Section 5. License fee

The bill amends s. 551.106(1)(a), F.S. to provide that the \$3 million license fee is to be paid on the anniversary date of issuance of the initial license and then annually thereafter.

Section 6. Slot machine occupational license; findings; application; fee

The bill amends s. 551.107(2)(a)2., F.S., to provide for a professional occupational license for any person not an employee of the slot machine licensee who provides maintenance, repair, or upgrades or otherwise services a slot machine or other slot machine equipment.

Section s.551.107(2)(a)3., is amended to exclude business occupational licenses for persons who provide maintenance, repair or upgrades or otherwise service a slot machine or other slot machine equipment.

The bill amends s. 551.107(2)(b), F.S., to allow the division to issue a combination license for pari-mutuel and cardroom occupational licensees.

The bill amends s. 551.107(4), F.S., to establish the term of slot machine licenses or combination licenses to be the same as a pari-mutuel occupational license.

The bill creates ss. 551.107(9) and 551.107(1), F.S., to authorize DPBR to deny, revoke, suspend, fine or place conditions upon the license under certain circumstances.

The bill creates s. 551.107(11), F.S., to provide that the division may impose a civil fine of up to \$5,000 for each of violation under the chapter or rules of the division.

Section 7. Prohibited acts; exceptions

The bill amends s. 551.109(2), F.S., to provide that persons who are slot machine manufacturers or distributors and hold appropriate licenses issued by the division are authorized to maintain a slot machine storage and maintenance facility at any location in a county where slot machine gaming is authorized.

It provides that certified education facilities may maintain slot machines for purposes of education and licensure as slot machine technicians, inspectors or investigators. It also gives the Department of Law Enforcement authority to possess slot machines for training and testing purposes.

Section 8. Slot machine gaming areas

The bill amends s. 551.114(1), F.S., increasing from 1,500 to 2,000 the number of slot machines allowed in the slot machine licensee facility.

Section 9. Days and hours of operation

The bill amends s. 551.116, F.S., to provide that the hours of operation may be for a cumulative number of 18 hours per day during the week and 24 hours on the weekends and holidays.

Section 10. Prohibited activities and devices

The bill amends s. 551.121(3), F.S., to provide that automated teller machine or similar devices are not allowed in the designated slot machine gaming areas of a facility. This language will allow for automated teller machines and similar devices to be located on any other location of the pari-mutuel facility other than the slot machine gaming area.

The bill amends s. 551.121(4), F.S., to provide that a slot machine licensee may not cash checks except for employees.

The bill amends s. 551.121(5), F.S., to allow slot machines or the computer operating system to be linked to any other slot machine or computer operating system in the facility. It allows a progressive system to be used in conjunction with slot machines within the facility.

Section 11. Manufacture, sale, possession, etc of coin-operated devices prohibited

The bill amends s. 849.15(2), F.S., to allow shipment of gaming devices including slot machines into this state provided the destination of the shipment is an eligible facility defined in s. 551.102, or the facility of a slot machine manufacturer or slot machine distributor as provided in s. 551.109(2)(a), F.S. It deletes the provision that limited shipment of slot machines to any eligible county.

Section 12. Appropriation

The bill provides an appropriation to the 17th Judicial Circuit in Broward County for the purpose of investigating and prosecuting offenses associated with gaming operations.

Section 13. The bill becomes effective upon becoming a law.

C. SECTION DIRECTORY:

See section I.B. above for the section-by-section analysis.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate related to non-redeemable credits. The REC projects an annualized increase of \$44.5 million in the Educational Enhancement Trust Fund and a \$3.3 million reduction in General Revenue. There is an additional nonrecurring loss to General Revenue in Fiscal Year 2006-07 in the amount of an estimated \$9.0 million.

2. Expenditures:

The Jobs and Entrepreneurship Council provided an appropriation of \$241,547 from the Pari-Mutuel Wagering Trust Fund for the Office of the State Attorney, 17th Judicial Circuit.

The Florida Department of Law Enforcement (FDLE) has indicated in their staff analysis that they will need 14 new positions to staff each racino facility on a 24/7 basis. This request is not being included in the CS because with the original implementation of slot machines, FDLE received 39 FTE for the oversight of four facilities. At this time, only three facilities are operational. This issue can be readdressed once the fourth facility is operational.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The REC projects an annualized loss to local government's share of sales tax receipts of \$700,000.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

It is currently indeterminate what kind of impact this legislation will have on the private sector.

D. FISCAL COMMENTS:

The April 3, 2007 Revenue Estimating Conference (REC) adopted an annualized estimate of an increase of \$47.2 million to the Educational Enhancement Trust Fund and a \$3.3 million reduction to General Revenue for Fiscal Year 2007-08. The Jobs and Entrepreneurship Council provided an appropriation of \$241,547 to the Office of the State Attorney, 17th Judicial Circuit, for the addition of 1 Attorney and 2 Investigator positions for investigations and prosecutions related to gaming activities.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

The bill specifies that the Division adopt rules governing a required drug testing program, a temporary license issuance process, combination license implementation, penalty schedules for fines and citations, location and operation of off premises storage facilities, and regulation of testing and training procedures for the operation slot machines.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 22, 2007, the Committee on Business Regulation adopted a strike all amendment, as amended, and passed the bill out of committee.

The amendment [as amended]

- Removes reference to a 35% tax rate and a \$75 per full-time student allocation in Broward county;
- Provides for free spins on a slot machine not to be taxed as revenue, for a fixed \$2 million licensee bond, for clarification of the time for payment of the \$3 million licensee fee, for a universal occupational license, for additional storage facilities for the machines and possession for training purposes, for an

increase in the number of machines from 1,500 to 2,000, for 18 cumulative hours per day for operations [rather than a maximum of 16 hours per day] and 24 hours on weekends and holidays, for progressive jackpots by linking machines within a facility, for the location of ATM machines on the licensed facilities, for cashing of checks of persons employed within the facility, and for an appropriation to offset potential additional expenses of the State Attorney in Broward, 17th judicial circuit.

- Amends the title to clarify the narrow application of the provisions of the bill to slot machine gaming, only as authorized by Section 23 of Article X of the State Constitution.

On April 20, 2007, the Jobs & Entrepreneurship Council adopted a Council Substitute and reported the CS out of Council.

The CS differs from the original bill by removing reference to a 35% tax rate and a \$75 per full-time student allocation in Broward County.

The CS also:

- Excludes non-redeemable credits from the definition of “slot machine revenues” and defines “non-redeemable credits”;
- Provides that the division must have procedures for requiring slot machine licensees to implement and establish drug testing programs for all slot machine occupational licensees;
- Require the slot machine licensee to create and file with the division a written policy for the implementation of a drug testing program;
- Creates new language for temporary occupational licenses;
- Provides that the \$3 million license fee is to be paid on the anniversary date of issuance of the initial license and then annually thereafter;
- Allows the division to issue a combination license for pari-mutuel and cardroom occupational licensees;
- Provides that slot machine manufacturers and distributors may maintain slot machine storage and maintenance facilities in the county where the slot machine facility is located;
- Provides that certified education facilities may maintain slot machines for purposes of education and licensure as slot machine technicians, inspectors or investigators;
- Allows for 2000 slot machines in the slot machine licensee facility;
- Provides that the hours of operation may be for a cumulative number of 18 hours per day during the week and 24 hours on the weekends and holidays;
- Provides that automated teller machines are not allowed in the designated slot machine gaming areas;
- Provides that a slot machine licensee may not cash checks except for employees;
- Allows slot machines to be linked and allows a progressive system within the facility;
- Provides an appropriation to the 17th Judicial Circuit in Broward County.