

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Finance and Tax Committee

BILL: CS/CS/SB 970

INTRODUCER: Finance and Tax Committee, Regulated Industries Committee and Senator Geller

SUBJECT: Slot Machine Revenues/Tax

DATE: March 7, 2008

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bedford</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>ODonnell</u>	<u>Johansen</u>	<u>FT</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

Beginning July 1, 2008, this bill reduces the tax rate on slot machine revenues at pari-mutuel facilities in Broward and Miami-Dade Counties from 50 percent to 35 percent. If the total slot machine tax paid at the 35 percent rate on slot machine revenue from the licensees operating during 2007-2008 does not meet or exceed \$123 million in any state fiscal year, the shortfall will be paid by the slot machine licensees that conducted slot machine gaming in that fiscal year. In any state fiscal year, if the total slot machine tax paid on slot machine revenue for a licensee not operating in fiscal year 2007-2008 does not meet or exceed or \$41 million at the 35 percent rate, that licensee must make up its shortfall. These shortfall payment amounts must be paid by July 31, of the next fiscal year. However, no licensee is obligated to pay more than 50 percent in taxes on its slot machine revenues for any state fiscal year. All requirements to pay an effective rate above 35 percent in the event of a shortfall expire on July 1, 2012.

The bill provides for a 35 percent tax rate on all slot machine revenues with no reservation if another type of Class III gaming, in addition to slot machines, is commenced on Indian reservations located in Broward or Miami-Dade. In addition, the slot machine tax rate will be the lesser of 35 percent, or the tax rate imposed on video lottery, electronic gaming, or Class II

or Class III gaming, if they are authorized in any county in the state and, in either such event, the guarantee provisions will not apply.

The bill addresses the sale of alcoholic beverages during operating hours to allow the slot machine operators to have uniform beverage regulation.

This bill amends sections 551.106 and 551.116, Florida Statutes.

## **II. Present Situation:**

### **Slot Machines**

Chapter 849, F.S., governs the conduct of gambling in Florida. Section 849.15, F.S., prohibits the manufacture, sale, lease, play, or possession of slot machines in Florida. Subsection (2), provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

Section 849.16, F.S., defines slot machines for purposes of chapter 849, F.S. as:

- (1) Any machine or device is a slot machine or device within the provisions of this chapter if it is one that is adapted for use in such a way that, as a result of the insertion of any piece of money, coin, or other object, such machine or device is caused to operate or may be operated and if the user, by reason of any element of chance or of any other outcome of such operation unpredictable by him or her, may:
  - (a) Receive or become entitled to receive any piece of money, credit, allowance, or thing of value, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value or which may be given in trade; or
  - (b) Secure additional chances or rights to use such machine, apparatus, or device, even though it may, in addition to any element of chance or unpredictable outcome of such operation, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.

During the 2004 General Election, the electors approved Amendment 4 to the State Constitution, codified as s. 23, Art. X, Florida Constitution, which authorized slot machines at existing pari-mutuel facilities in Miami-Dade and Broward Counties upon an affirmative vote of the electors in those counties. Both Miami-Dade and Broward Counties held referenda elections on March 8, 2005. The electors approved slot machines at the pari-mutuel facilities in Broward County, but the measure was defeated in Miami-Dade County. Four pari-mutuel facilities became eligible to conduct slot machine gaming in Broward County: Gulfstream Park Racing Association (a thoroughbred permitholder), The Isle Casino and Racing at Pompano Park (a harness racing permitholder), Dania Jai Alai (a jai alai permitholder), and Mardi Gras Race Track and Gaming Center (a greyhound permitholder). Legislation was passed during the 2005 Special Session B, HB 1B, ch. 2005-362, L.O.F., that implemented Amendment 4 in accord with to the provisions of the constitutional amendment. The Division of Pari-Mutuel Wagering (division or DPMW)) of the Department of Business and Professional Regulation (department or DBPR) is charged

with regulating the operation of slot machines in the affected counties. Of the four eligible facilities in Broward County, all are operating except Dania Jai Alai.

On January 29, 2008, another referendum was held under the provisions of Amendment 4, in which the slot machines in Miami-Dade County were approved. Three additional pari-mutuel facilities are now eligible to conduct slot machine gaming in Miami-Dade County: Miami Jai-Alai (a jai-alai permitholder), Flagler Greyhound Track (a greyhound permitholder), and Calder Race Course (a thoroughbred permitholder).

### **Definitions**

Section 551.102(8), F.S., defines slot machine as:

any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both. A slot machine is not a "coin-operated amusement machine" as defined in s. 212.02(24) or an amusement game or machine as described in s. 849.161, and slot machines are not subject to the tax imposed by s. 212.05(1)(h).

Section 551.102(13), F.S., defines slot machine revenues as:

the total of all cash and property, except nonredeemable credits, received by the slot machine licensee from the operation of slot machines less the amount of cash, cash equivalents, credits, and prizes paid to winners of slot machine gaming.

### **Tax on slot machine revenues**

Section 551.106(2), F.S., provides that the tax rate on slot machine revenues at each facility is 50 percent. The slot machine revenue tax is paid to the division for deposit into the Pari-mutuel Wagering Trust Fund for immediate transfer by the Chief Financial Officer into the Educational Enhancement Trust Fund of the Department of Education. The facilities remit taxes each week. Any interest earnings on the tax revenues is also to be transferred to the Educational Enhancement Trust Fund.

Funds transferred to the Educational Enhancement Trust Fund are used to supplement public education funding statewide and may not be used for recurring appropriations.

A slot machine licensee who fails to make tax payments as required under this section is subject to an administrative penalty of up to \$10,000 for each day the tax payment is not remitted. All administrative penalties imposed and collected must be deposited into the Pari-mutuel Wagering Trust Fund of the Department of Business and Professional Regulation. If any slot machine licensee fails to pay penalties imposed by an order of the division under this subsection, the division may suspend, revoke, or refuse to renew the license of the slot machine licensee.

### **Days and hours of operation**

Section 551.116, F.S., provides that the slot machine gaming areas may be open 365 days a year and open for a maximum of 18 hours per day Monday through Friday and 24 hours per day on Saturday and Sunday and on those holidays specified in s. 110.117(1), F.S.

### **Prohibited activities and devices**

Section 551.121, F.S., prohibits:

- Complimentary or reduced-cost alcoholic beverages from being served to persons playing a slot machine. The price of the alcoholic beverages must be at least the same as alcoholic beverages served to the general public at a bar within the facility;
- Making any loan, providing credit, or advancing cash in order to enable a person to play a slot machine;
- ATM's or similar devices designed to provide credit or dispense cash from a person's personal account to be located within the facilities of the slot machine licensee.
- Accepting or cashing personal, third-party, corporate, business, or government-issued check from any person.

### **III. Effect of Proposed Changes:**

The bill amends s. 551.106, F.S., beginning July 1, 2008, changing the tax rate on slot machine revenues at each facility from 50 percent to 35 percent. If the total slot machine tax revenue paid by Broward County facilities operating in 2007-2008 at the 35 percent rate does not meet or exceed a cumulative amount of \$123 million in any state fiscal year, the shortfall from that amount is shared by those slot machine licensees in proportion to their tax remittances at the 35 percent rate.

The bill provides that slot machine licensees, other than those in operation in 2007-2008, pay tax on the greater of 35 percent of their revenues or \$41 million, for each state fiscal year, prorated based on days of operation during a fiscal year.

Each licensee will pay its share of any shortfall amount on or before July 31 of the next fiscal year. No licensee is obligated to pay in taxes during a state fiscal year a cumulative amount of more than 50 percent of its slot machine revenues. The requirement to pay at an effective rate above 35 percent in the event of a shortfall expires July 1, 2012.

The bill provides for a 35 percent tax rate if Class III gaming, in addition to slot machines, is commenced on Indian reservations, or the application of the lesser of 35 percent or the tax rate

imposed on video lottery, electronic gaming, or Class II or Class III gaming is authorized in any county in the state.

The bill provides that taxes are to be remitted once each month instead of weekly.

The bill amends s. 551.116, F.S., addressing the sale of alcoholic beverages during operating hours to allow the slot machine operators to have uniform beverage regulation.

The bill will take effect upon becoming a law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

This bill reduces the tax rate for slot machine licensees from 50 percent to 35 percent. The total amount of tax revenue may not fall under \$123 million at a 35 percent tax rate for licensees operating in 2007-2008. Tax remittances for any licensee that begins operation after 2007-2008 may not be less than \$41 million for each state fiscal year at a 35 percent rate. Licensees must pay any shortfall that is due during the first month of the subsequent fiscal year. No licensee is obligated to pay tax at a rate more than 50 percent slot machine revenues for any state fiscal year. The requirement to pay at an effective rate above 35 percent in the event of a shortfall expires July 1, 2012.

B. Private Sector Impact:

The Revenue Estimating Conference projects that licensees will increase promotional activities due to savings realized from the bill, thereby increasing revenue subject to tax.

C. Government Sector Impact:

The Revenue Estimating Conference official estimate of the fiscal impact of the bill is "indeterminate," as the conference was unable to determine whether the legislation would result in an increase or decrease in slot machine revenue taxes.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Finance and Tax on March 6, 2008:**

The CS/CS SB 970 amends s. 551.106, F.S., by changing the tax rate on slot machine revenues at each facility from 50 percent to 35 percent starting July 1, 2008. If the total slot machine tax revenue paid at the 35 percent rate by facilities operating in state fiscal year 2007-2008 does not meet or exceed a cumulative amount of \$123 million in any state fiscal year, the shortfall from that amount is shared by the slot machine licensees on a pro rata basis. Each such licensee will owe its pro rata share of any shortfall in proportion to their tax remittances at 35 percent to be paid on or before July 31 of the next fiscal year.

The CS/CS SB 970 provides that slot machine licensees, other than those operating in fiscal year 2007-2008, pay tax on the greater of 35 percent of their revenues or \$41 million per licensee, prorated based on days of operation during a fiscal year.

No licensee is obligated to pay tax at a rate of more than 50 percent on its slot machine revenue for a state fiscal year. The requirement to pay at an effective rate above 35 percent in the event of a shortfall expires July 1, 2012.

The CS/CS SB 970 provides that ,in the event Class III gaming, other than slot machine gaming, as defined by the Indian Gaming and Regulatory Act, is commenced in Broward or Miami-Dade County on any Indian Reservation, the tax rate is 35 percent notwithstanding any other provision of the bill.

The CS/CS SB 970 provides that, in the event the state authorizes video lottery terminals or electronic gaming, Class II, or Class III gaming, as defined by the Indian Gaming and Regulatory Act, at pari-mutuel facilities in any county in this state, the tax rate shall be the lesser of 35 percent, or the tax rate established for such pari-mutuel facilities notwithstanding any other provision of the bill.

The CS/CS SB 970 provides that taxes are to be remitted once each month instead of weekly.

**CS by Regulated Industries on February 19, 2008:**

All of the original provisions of the bill were deleted. Please see the Effect of Proposed Changes section for the differences between the committee substitute and the prior version of the bill.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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