

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4032
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 4, 2020

SUMMARY

- Synopsis:** Provides temporary modifications to payment and use of certain casino gaming taxes and fees due to COVID-19 Public Health Emergency and State of Emergency; allows full deduction of promotional gaming credits and certain coupons from gross revenues.
- Type of Impact:** Temporary and annual decreases in State revenues; shift in State revenues collections into future fiscal years
- Agencies Affected:** Casino Control Commission;
Casino Reinvestment Development Authority;
Department of Law and Public Safety; and
Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2020 and Thereafter</u>
State Revenue Loss	Indeterminate
State Revenue Shift	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate decreases in State revenues, some temporary in nature and some permanent, and a shift in the timing of when certain revenues are received into future fiscal years. The OLS cannot quantify all aspects of the bill due to uncertainties surrounding when casino licensees will satisfy certain requirements set forth in the bill and when the Governor’s Executive Order No. 103 of 2020, which declared a Public Health Emergency and State of Emergency related to the COVID-19 pandemic, will conclude.
- For the parts of the bill that the OLS can quantify, mostly related to slot machine, parking, hotel, and tourism fees, the OLS estimates that State revenues could potentially decline by as much as \$66.2 million through FY 2022 compared to pre-pandemic levels. Revenues will be further diminished by an indeterminate amount because of the bill’s provisions that provide a temporary alternative calculation for casino licensees’ tax liabilities and a permanent enhanced deduction for promotional gaming credits and coupons.

- For the fees that are permitted to be deferred under the bill, each casino licensee would have to pay back the deferred amounts over a 12-month period. Thus, the bill will shift, at least in part, revenue that would have been generated from casino licenses and fees in FY 2020 to FY 2021 and potentially FY 2022 depending on the length of time that Executive Order No. 103 remains in effect.

BILL DESCRIPTION

This bill provides for temporary modifications to the payment and use of certain casino gaming taxes and fees due to the COVID-19 Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020. This bill also amends current law concerning the use of promotional gaming credits by casino licensees and their deduction from gross revenues.

The bill allows for certain licensing and other fees imposed on casino licensees, that are deposited to the Casino Control Fund (CCF), to be deferred during the period the licensee's casino hotel facility remains closed due to the emergencies, and during the six-month period immediately following the date that the casinos are permitted to reopen after the emergency declarations. The annual license fee on each slot machine would be entirely waived from July 1, 2020 through June 30, 2021, inclusive. The deferment or waiver would not apply to any fees imposed on a casino licensee or its Internet gaming affiliate for the issuance or renewal of any Internet gaming license or permit, or to any amounts required to be deposited in the CCF from Internet wagering inactive or dormant accounts.

The bill requires any surplus funds held by the Division of Gaming Enforcement in the CCF, or held by the division due to an overpayment of the investment alternative tax in the case of a downward adjustment of the casino licensee's audited gross revenues, to be returned to the casino licensee within a specified time period.

The bill also waives, for a period of 24 months beginning on the date that the casinos are permitted to reopen, the provisions of law requiring the imposition of a minimum charge of \$3.00 and minimum fee of \$3.00 for any parking space in a casino parking garage. In addition, the bill waives certain hotel room fees related to casino gaming for the remainder of CY 2020. The fee of \$3 per day on each hotel room in a casino hotel facility that is occupied by a guest, and the fee of \$2 per day on each occupied room in a casino hotel and fee of \$1 per day fee on each occupied room in a non-casino hotel in Atlantic City, are waived for the remainder of CY 2020.

This bill provides for a reduced tax liability on casino gross revenue tax and investment alternative tax obligations for brick-and-mortar casino properties reopening following their closure due to the COVID-19 emergency declarations. The reduced tax liability would be in effect during the 24-month period commencing on the date that the casinos are permitted to reopen after the declarations and ending on the last day of the 24th month thereafter. To remain eligible to receive the tax liability reductions, the bill requires each casino licensee to submit certain information to the State Treasurer and the Division of Gaming Enforcement, at the same time that the reduced tax payments are made.

This bill amends current law to permit each casino licensee to take a deduction against gross revenues equal to the full amount of promotional gaming credits, including match play and table game coupons, that are issued by the licensee and redeemed its patrons. Currently, casinos are permitted to take such deductions only for the amount of promotional gaming credits redeemed in a tax year that exceed \$90,000,000. This bill also removes the division's ability to limit the negative fiscal impact of the promotional gaming credit deduction on the Casino Revenue Fund (CRF).

This bill directs the Casino Reinvestment Development Authority (CRDA) to commit any available funds in its general fund to undertaking a marketing campaign to assist in returning Atlantic City's tourism and gaming activities to their levels prior to the emergencies, which would begin immediately upon the bill's effective date and continue through June 30, 2021.

This bill does not impact any casino licensee's tax liabilities on gross revenues realized from casino simulcasting, internet gaming, or sports wagering.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in indeterminate decreases in State revenues, some temporary in nature and some permanent, and a shift in the timing of when certain revenues are received into future fiscal years. The OLS cannot quantify all aspects of the bill due to uncertainties surrounding when casino licensees will satisfy certain requirements set forth in the bill and when the Governor's Executive Order No. 103 of 2020, which declared a Public Health Emergency and State of Emergency related to the COVID-19 pandemic, will conclude. For the parts of the bill that the OLS can quantify, mostly related to slot machine, parking, hotel, and tourism fees, the OLS estimates that revenues could decline by as much as \$66.2 million through FY 2022. Revenues will be further diminished by an indeterminate amount because of the bill's provisions that provide a temporary alternative calculation for casino licensees' tax liabilities and a permanent enhanced deduction for promotional gaming credits.

Based on the State's Comprehensive Annual Financial Report for FY 2019, the CCF had total revenues of \$49.1 million from licenses and fees. With a few exceptions, the bill defers the payment of licensing and other fees that impact the CRDA, CCF, and CRF. This deferment is set to last for the duration of Executive Order No. 103 and for six months following the conclusion of the state of emergency. The OLS cannot predict when the state of emergency will conclude and how long this deferment will last. However, for most fees, each casino licensee would have to pay back the deferred amounts over a 12-month period. Thus, the bill will shift, at least in part, revenue that would have been generated from casino licenses and fees in FY 2020 to FY 2021 and potentially FY 2022 pending on the length of time that Executive Order No. 103 remains in effect.

The bill waives the \$500 fee paid by casinos annually for each slot machine from July 1, 2020 through June 30, 2021. According to the FY 2021 Governor's Budget Message, roughly 18,000 slot machine licenses were anticipated to be issued during FY 2021. With a cost of \$500 per license, at least \$9.0 million in revenues from slot machine licenses, which are deposited into the CCF, will be foregone because of the bill's waiver.

The bill also waives certain parking, hotel, and tourism fees. According to the *New Jersey Division of Gaming Enforcement's Summary of Gaming and Atlantic City Taxes and Fees* report¹, the \$3.00 per day fee for each parking space yielded roughly \$23.1 million in CY 2019, with most of that fee being allocated to the CRDA. Over a 24-month period, therefore, the CRDA and the CRF could lose as much as \$46.2 million in revenue from waiving the fee imposed on parking spaces at casinos. For CY 2019, the \$3.00 fee for each occupied hotel room night generated about \$12.7 million and the tourism promotion fee generated \$9.3 million. The bill waives the hotel fee

¹ <https://www.state.nj.us/lps/ge/docs/Financials/QuarterlyFinRpt2019/ACSpecificTaxesandFees1978-2019.pdf>

and tourism promotion fee for the remainder of CY 2020. If those fees are waived for up to six months, the total amount of foregone revenue from those fees would be roughly \$11.0 million. In the aggregate, the OLS estimates that the bill could reduce revenues by as much as \$66.2 million compared to pre-pandemic levels. Much of this impact would occur in FY 2021, but the parking fee waiver will also diminish revenue collections in FY 2022.

The OLS notes that the fees waived by the bill are used, at least in part, to satisfy debt service and operational costs. The CRDA may have to utilize other sources of funding for debt service and operations that are traditionally covered by those fees.

The bill prescribes a new formula for the calculation of a casino's eight percent tax liability on gross revenues and the investment alternative tax following reopening. Given that the calculation of each casino's tax liability will be different under this new formula and based on certain unique metrics, the OLS cannot quantify the magnitude by which gross revenue tax collections and investment alternative tax collections will decrease as a result of the bill. The reduction in tax liability could last for as long as 24 months, so the impact could spill over into FY 2022.

The bill also modifies and enhances a deduction provided to casino licensees against their gross revenues for certain promotional perks redeemed by patrons. The current deduction is based on the total value of promotional gaming credits redeemed by a casino's patrons in excess of \$90 million. The bill removes the \$90 million threshold, which allows casino licensees to deduct all promotional gaming credits and not just the amount in excess of the threshold. In addition to promotional gaming credits, casino licensees will also deduct match play coupons and table game wager coupons as a result of the bill. The enhanced deduction is a permanent change and will reduce a casino licensee's tax liability, which in turn reduces the amount of revenue the State receives into the CRF for all future fiscal years.

This bill directs the CRDA to commit any available funds in its General Fund to undertaking a marketing campaign to assist in returning Atlantic City's tourism and gaming activities to their levels prior to the states of emergency, which would begin immediately upon the bill's effective date and continue through June 30, 2021. The bill may cause a shift forward in State spending on these initiatives, but the OLS has no way of knowing how or when the CRDA will implement these requirements of the bill.

Section: Revenue, Finance and Appropriations
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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).