LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5587
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: DECEMBER 15, 2021

SUMMARY

Synopsis: Concerns matters related to operations and obligations of casino gaming properties and finances of Atlantic City.

Type of Impact: Net loss of local revenues.
Net increase in State revenues.

Agencies Affected: Department of Community Affairs, Department of Law and Public Safety, Casino Reinvestment Development Authority, City of Atlantic City, Atlantic City School District, and Atlantic County.

Office of Legislative Services Estimate

Fiscal Impact	CY2022	CY 2023	CY 2024-2026
Local Revenue Loss from PILOT	$40 million	$30 million to $50 million	$25 million to $45 million
State Revenue Gain from IAT	$18.1 million	Indeterminate	
CRDA Revenue Gain from IAT	$9 million	Indeterminate	
Local Revenue Gain from IAT	None	Indeterminate	

- The Office of Legislative Services (OLS) concludes that the bill will result in a loss of local payment in lieu of tax (PILOT) revenues in calendar years 2022 through 2026 likely falling in a rage of $30 million to $50 million each year. Removing gross revenues generated by Internet casino gaming and Internet sports wagering will result in lower annual totals of gross gaming revenue (GGR) and reduce the PILOT due to the City of Atlantic City, Atlantic County, and the Atlantic City School District.

- A portion of the municipal revenue loss will be offset by: 1) other casino non-tax payments of $5 million per year in calendar years 2024 through 2026; and 2) the reallocation of a portion of investment alternative tax (IAT) revenues not required to pay Casino Reinvestment Development Authority (CRDA) and municipal debt service.

- The State may also receive additional revenues because the bill requires a portion of the excess IAT revenues to be distributed to the CRDA. IAT revenue collections change annually and the OLS cannot project the amount of unreserved IAT funds that may be available to the State and the City of Atlantic City beyond calendar year 2022.

BILL DESCRIPTION

The bill amends and supplements the "Casino Property Tax Stabilization Act" (CPTSA) P.L.2016, c.5, which governs the casino gaming industry's financial obligations to the City of Atlantic City ("city"), Atlantic County ("county"), and the Atlantic City School District ("school district"). The CPTSA exempts casino gaming properties from the regular system of assessment used to determine the value of property for ad valorem taxation. Instead, casino gaming properties are required to fulfill their local government financial obligations by making annual PILOTs, the amount of which is based on casino gaming revenues. The PILOT is apportioned among casino gaming property owners by a statutory formula that accounts for GGR, the number of hotel rooms, and square feet of floor space at each casino gaming property.

The bill also makes several changes to provisions of the CPTSA regulating the calculation and distribution of the PILOT made by casino gaming properties. First, the bill excludes revenues generated by Internet gaming and Internet sports wagering from the calculation of GGR for calendar years 2021 through 2025. Second, the bill establishes new PILOT amounts that reflect the new method of calculating GGR. The table below displays the current and proposed GGR ranges and corresponding PILOT amounts:

<table>
<tr><th colspan="2">Current GGR Ranges & PILOT Amounts</th><th colspan="2">New GGR Ranges & PILOT Amounts</th></tr>
<tr><th>GGR Range
(in billions)</th><th>Amount of PILOT
(in millions)</th><th>GGR Range
(in billions)</th><th>Amount of PILOT
(in millions)</th></tr>
<tr><td>Less than $1.8B</td><td>$90M</td><td rowspan="2">Less than $2.3B</td><td rowspan="2">$115M</td></tr>
<tr><td>$1.8B to $2.2B</td><td>$110M</td></tr>
<tr><td>$2.2B to $2.6B</td><td>$120M</td><td rowspan="2">$2.3B to $2.9B</td><td rowspan="2">$125M</td></tr>
<tr><td>$2.6B to $3.0B</td><td>$130M</td></tr>
<tr><td>$3.0B to $3.4B</td><td>$150M</td><td rowspan="2">Greater than $2.9B</td><td rowspan="2">$135M</td></tr>
<tr><td>$3.4B to $3.8B</td><td>$165M</td></tr>
</table>

Third, the bill sets the PILOT at $125 million for calendar year 2022. Fourth, the bill provides for increases in the PILOT if there is no upward or downward adjustment in the total amount of GGR and allows for changes to the PILOT as properties become subject to CPTSA or no longer qualify as casino gaming property. Fifth, the bill requires a specific portion of the PILOT to be paid to Atlantic County in calendar years 2022 through 2026 and requires the amount distributed to the Atlantic City School District in calendar years 2022 through 2026 to increase by two percent over the preceding year.

Current law requires the owners of casino gaming property make a separate payment to the State from 2015 through 2023, with the final payment in 2023 being $5 million. The bill extends these payments to the State through 2026 at the rate of $5 million per year.

Finally, the bill changes the allocation of investment alternative tax (IAT) revenues between the Casino Development Authority (CRDA) and the City of Atlantic City, and the purposes for which those revenues may be used, in calendar years 2022 through 2026. Current law allocates IAT receipts collected by the CRDA to Atlantic City the purpose of paying debt service on municipal bonds. The bill requires that any IAT revenues remaining after the allocation of

proceeds for CRDA and municipal debt service payments are to be allocated to the CRDA, the city to support general municipal purposes, and the new "Clean and Safe Fund" and "Infrastructure Fund" established by the bill. Moneys deposited in the Clean and Safe Fund are to support capital public safety expenses and assorted municipal projects, such as beautification, lighting, and sidewalk repair. Infrastructure Fund proceeds may finance any work that may be undertaken as a local improvement pursuant as defined and enumerated in State law. IAT revenues pledged for the payment of bonds issued by the CRDA, or any bonds issued to refund those bonds, or otherwise contractually obligated by the authority prior to the effective date the CPTSA are excluded from the reallocation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that enactment of the bill will result in an indeterminate loss of municipal revenues likely in the tens of millions of dollars annually, and a smaller possible increase in revenues to the State and CRDA. The elimination of revenues generated by Internet casino gaming and Internet sports wagering will reduce the amount of gross gaming revenues used to determine the annual PILOT payment made by the owners of casino gaming property to the city, county, and school district. Although the bill requires the owners of casino gaming property to make supplemental payments for three additional years than required under current law, these payments will not be sufficient to make up the difference between the amount of the PILOT payment calculated under current law and the amount of the PILOT payment calculated in accordance with the bill. The redirection of IAT revenues to support certain capital and infrastructure projects and the city's municipal budget may result in increased CRDA, State, and municipal revenues, but given the city's and the CRDA's ongoing debt obligations, it remains unclear whether there will be any excess IAT revenues available for reallocation.

<u>Revisions to the PILOT Formula</u>

The OLS estimates that enactment of the bill would result in a local revenue loss of $40 million in calendar year 2022 from casino PILOT payments. According to monthly financial reports available through the Division of Gaming Enforcement in the Department of Law and Public Safety, total gross gaming revenue through October 2021 is $3.496 billion. At the current rate, the OLS estimates that total gross gaming revenue for calendar year 2021 would be $4.196 billion. The maximum amount of gross gaming revenue and PILOT amount contemplated under current law are $3.8 billion and $165 million, respectively. For purposes of this estimate, the OLS anticipates that if GGR is $4.196 billion, casino gaming property owners would be required to pay the maximum PILOT amount of $165 million under the current law. The bill sets the calendar year 2022 PILOT amount at $125 million, resulting in a local revenue loss of $40 million.

The OLS projects that the removal of revenue generated by Internet casino gaming and Internet sports wagering from GGR would reduce calendar year 2021 GGR by approximately $1.606 billion, from $4.196 billion to $2.590 billion. Under the new schedule of PILOT amounts, the calendar year 2022 PILOT would be $125 million. Applying the new GGR ranges would not change the calendar year 2022 PILOT by $10 million. However, jettisoning Internet casino

gaming revenue and Internet sports wagering revenue will result in lower GGR levels and PILOT amounts. This, in turn, will cause local revenue losses in calendar years 2023 through 2026. The OLS does not forecast GGR, but notes that the change in the PILOT amount would likely fall in a range between $30 million and $50 million per year, depending on actual GGR collections as measured by the two methodologies. Although the bill requires the owners of casino gaming property to make payments to the city of $5 million per year in calendar years 2024 through 2026, it is unlikely that these payments will wholly offset the municipal revenue loss resulting from application of the new PILOT formula.

Revisions to PILOT Allocations for Affected Local Governments

Current law requires the PILOT to be made directly to the city on a quarterly basis. A portion of the PILOT is remitted to the county and school district for their own purposes. The CPTSA does not establish a formula for determining the amount provided to the county and the school district, but it does allow the Local Finance Board to apportion a specific percentage of the PILOT to the county.

Using local budget information, the OLS has calculated that, on average, the city has received 54 percent of the annual PILOT allocation, the county has received 13 percent of the annual PILOT allocation, and the school district has received 34 percent of the PILOT allocation. As noted above, the bill requires Atlantic County to receive 13.5 percent of the PILOT in calendar year 2022 and the Atlantic City School District's PILOT allocation is to increase by two percent from calendar year 2021. These requirements means that the city will bear the largest revenue loss under the new PILOT formula. The table below shows the estimated calendar year 2022 PILOT to the city, county, and school district under current law, as provided by the bill, and the difference between the two amounts.

Estimated PILOT Allocations Pursuant to Current Law & A5587

Local Unit	Estimated CY 2022 PILOT Under Current Law	Estimated CY 2022 PILOT Under A5587	Difference
Atlantic City	$88,486,935.86	$61,410,020.00	($27,076,915.86)
Atlantic County	$20,806,476.38	$16,875,000.00	($3,931,476.38)
Atlantic City School District	$55,706,587.76	$46,714,980	($8,991,607.76)
Totals	$165,000,000.00	$125,000,000.00	($40,000,000.00)

The municipality, school district, or county may choose to adjust their tax rates, in effect reallocating the tax levy among all other property taxpayers, in order to make up any revenue difference resulting from the changes in payments made by casino property owners. (Although current law limits annual increases in the total property tax levy to 2 percent per year, local governments are permitted to increase rates in order to levy the permissible amount when there is a decline in the value of ratables.) Other actions, such as the awarding of additional State aid, reductions in appropriations by all affected governmental entities, the utilization of surplus and other reserves, or the redirection of existing State revenues to the municipal government may also ameliorate the effects of any revenue loss.

Allocation of Casino Investment Alternative Tax Revenues

Current law requires casinos to pay either 2.5 percent of gross gaming revenues to the State or 1.25 percent of gross gaming revenues to the CRDA for investment in the Atlantic City Tourism

District. This tax is also known as the IAT. Casinos are also required to pay IAT on Internet gaming gross revenues, but the tax rate is either five percent to the State or 2.5 percent to the CRDA for investment and community development purposes. Annual IAT revenue collections are driven by gaming activity and fluctuate from year to year.

Current law allocates IAT receipts first to the payment of bonds issued by the CRDA or otherwise contractually obligated by the CRDA, and second to the city for the purpose of paying municipal debt service. Current law does not indicate what would happen to revenues exceeding those needs, so for the purposes of this estimate the OLS assumes that those excess revenues would be refunded to the casinos. For calendar year 2022, the bill provides that excess revenues be allocated equally among the CRDA, the Clean and Safe Fund, and the Infrastructure Fund (which are held by the State). For calendar years 2023 through 2026, the bill provides that excess revenues be allocated to the CRDA, State, and city in specified proportions, up to maximum amounts for each recipient for each calendar year.

According to the "October 2021 Gaming Revenue Results" prepared by the Division of Gaming Enforcement, IAT revenues totaled $57.7 million through October 2021. At the current monthly rate, calendar year 2021 IAT revenues will total $69.240 million. The CRDA has informally indicated that no IAT revenues are pledged for its debt service payments but it retains approximately $1 million to support project funding commitments entered into prior to the enactment of the CPTSA. The city's municipal audit for calendar year 2020 notes that the city will pay $41.1 million in debt service in calendar year 2022. When the amounts retained by the CRDA and required for city debt service are subtracted from the estimated amount of calendar year 2021 IAT revenues, there would be about $27.1 million remaining; the CRDA and the two new funds would receive about $9 million each.

To the extent that there are IAT revenues in excess of amounts needed for debt service, the CRDA, State, and city may experience an increase in revenues. The CRDA will receive additional resources to support eligible community and economic development projects in Atlantic City and around the State. The city will experience an increase in dedicated and general municipal revenues. The OLS notes that the bill requires the city to receive State approval to utilize Clean and Safe Fund and Infrastructure Fund proceeds for their authorized purposes. If Atlantic City is no longer deemed a municipality in need of stabilization and recovery pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4, then any moneys remaining in the funds would be distributed to the city, subject to a memorandum of understanding with the State Treasurer that they support purposes authorized by the bill.

Section:	*Revenue, Finance and Appropriations*
Analyst:	*Scott A. Brodsky* *Principal Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

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.).