

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5587

STATE OF NEW JERSEY

219th LEGISLATURE

DATED: DECEMBER 21, 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.
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	CY 2022	CY 2023	CY 2024-2026
Local Revenue	\$55 million	\$30 million to \$65	\$25 million to \$60
Loss from PILOT		million	million
State Revenue	\$0 to \$4 million	\$0 to \$4.2 million	\$0 to \$18.6 million
gain from IAT			over 3 years
CRDA revenue	\$0 to \$2.7 million	\$0 to \$3.5 million	\$0 to \$10.5 million
gain from IAT			over 3 years
Local Revenue	\$0 to \$6.8 million	\$0 to \$9.8 million	\$0 to \$51.6 million
gain from IAT			over 3 years

- The Office of Legislative Services (OLS) concludes that the bill will result a loss of local payment in-lieu of tax (PILOT) revenues in calendar years 2022 through 2026 likely falling in a range from \$30 million to \$65 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 the 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.

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.

Under the current PILOT formula, GGR includes the total amount of revenue raised from three types of casino gaming: traditional casino gaming that takes place inside the casinos, Internet casino gaming, and sports wagering. The amount of the annual PILOT is determined based on the whether total annual GGR falls within a certain range. Current law also requires the PILOT to increase by two percent annually if there is no upward adjustment to the base amount of the PILOT. An upward adjustment in the PILOT occurs if the GGR range changes from one year to the next.

The bill makes several changes to 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 the corresponding base PILOT amounts.

Current GGR Ranges & PILOT Amounts		New GGR Ranges & PILOT Amounts	
GGR Range (in billions)	Amount of PILOT (in millions)	GGR Range (in billions)	Amount of PILOT (in millions)
Less than \$1.8B	\$90M	Less than \$2.3B	\$100M
\$1.8B to \$2.2B	\$110M		
\$2.2B to \$2.6B	\$120M	\$2.3B to \$2.9B	\$110M
\$2.6B to \$3.0B	\$130M		
\$3.0B to \$3.4B	\$150M	Greater than \$2.9B	\$120M
\$3.4B to \$3.8B	\$165M		

Third, the bill sets the PILOT at \$110 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. Fifth, the bill places a limit on the net liability of individual casino gaming properties due to the elimination of the investment alternative tax credit after 2021. Sixth, the bill allows for changes to the PILOT as properties become subject to the CPTSA or no longer qualify as a casino gaming property. Seventh, the bill requires a specific portion of the PILOT to be paid to the county and the school district in calendar years 2022 through 2026 and provides for adjustments to the amounts paid to those entities based on changes in the amount of GGR.

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

Finally, the bill changes the allocation of IAT revenues between the CRDA and the city, and the purposes for which those funds may be used, in calendar years 2022 through 2026. Current law allocates IAT receipts to the CRDA and to the city for the purpose of paying debt service on municipal bonds. The bill requires that any IAT revenues remaining after the allocation of proceeds to CRDA and municipal debt service payments are to be paid to the CRDA, the city, and the new “Clean and Safe Fund” and “Infrastructure Fund” established by the bill, in proportions specified by the bill and subject to specified maximum amounts. 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 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.

Revisions to the PILOT Formula

The OLS estimates that enactment of the bill would result in a local revenue loss of \$55 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 \$110 million, resulting in a local revenue loss of \$55 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 \$110 million. Applying the new GGR ranges in calendar year 2022 would not change the calendar year 2022 PILOT. 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 decrease in the PILOT amount would likely fall in a range between \$30 million to \$65 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.

The PILOT system has been in effect since calendar year 2017. 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. However, the bill requires the county and the school district to receive the same PILOT allocations in calendar year 2022 as they received in calendar year 2021. This requirement 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	\$46,651,000.00	(\$41,835,935.86)
Atlantic County	\$20,806,476.38	\$17,550,000.00	(\$3,256,476.38)
Atlantic City School District	\$55,706,587.76	\$45,799,000.00	(\$9,907,587.76)
Totals	\$165,000,000.00	\$110,000,000.00	(\$55,000,000.00)

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.

The bill requires the PILOT allocation to the county and school district to increase by two percent annually. The bill requires the county's PILOT allocation to increase by \$1.350 million if there is an upward adjustment in calendar year 2023 or 2024 and by \$1.2 million if there is an upward adjustment in calendar year 2025 or 2026. The school district's PILOT allocation would increase by \$3.5 million if there is an upward adjustment in any calendar year from 2023 through 2026. The bill provides for the county and school district PILOT amounts to be reduced by the same amounts if there is a downward adjustment.

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. 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, with any excess revenue refunded to the casinos. The maximum amount allocated varies from \$13.5 million in 2022 to \$31.1 million in 2026, below recent years' revenue collections.

According to the "Summary of Gaming and Atlantic City Taxes and Fees" prepared by the Division of Gaming Enforcement, IAT revenues peaked at \$65.2 million in calendar year 2006, declined to \$33.9 million in calendar year 2015, and then increased to \$43.2 million in calendar year 2020. Information on the total amount of IAT revenue required to pay CRDA and municipal debt service during calendar years 2022 through 2026 is not available to the OLS at this time. City budget data indicates that the amount of IAT revenues allocated for municipal debt service since calendar year 2016 have not been sufficient to support all appropriations for municipal debt service.

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 cannot determine the extent to which the receipt of additional IAT funds will offset any reductions in PILOT payments resulting from the new formula established by the bill.

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

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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.).