

REVENUE ESTIMATING CONFERENCE

TAX: Indian Gaming Revenue Share, Pari-mutuel Tax, Slots Machines Tax and Licenses

ISSUE: Indian Gaming Compact and various Pari-mutuel and Slot Machines Issues

BILL NUMBER(S): CS/SB622, HB7221

SPONSOR(S): Select Committee on Seminole Indian Compact Review

MONTH/YEAR COLLECTION IMPACT BEGINS: CS/SB622: Upon Becoming Law for Compact Provisions, July 1, 2010 for Pari-mutuel and Slot Machines issues, HB7221 Upon Becoming Law for Pari-mutuel and Slot Machines issues

DATE OF ANALYSIS: 4/7/10

SECTION 1: NARRATIVE

a. Current Law: On November 14, 2007, the Governor and the Seminole Tribe of Florida (the Tribe) executed a gaming agreement which was subsequently invalidated by the Florida Supreme Court. On August 28, 2009 and August 31, 2009 the Governor and the Tribe executed another agreement which was sent to the President and the Speaker but not ratified or approved by the Legislature.

Sections 4-25 of Ch. 2009-170, Laws of Florida, were to become effective upon the execution, approval by the U.S. Department of the Interior, and ratification of the Legislature of a gaming agreement. These contingencies have not been met.

b. Proposed Change: The Gaming Compact between the Tribe and the State of Florida, executed by the Governor and the Tribe on April 7, 2010, is ratified and approved by the Legislature. Key provisions related to the Revenue Share follow.

1. The compact allows play of covered games in the seven existing Seminole Tribe facilities. The current facilities may be expanded or replaced, but no more than the seven facilities may be in operation at any point in time.
2. Covered games include slot machines at all seven facilities and banked card games at all facilities with the exception of Brighton and Big Cypress. Expressly excluded are roulette, craps, roulette-style games and craps-style games.
3. The Tribe agrees to convert 80% of Class II machines to Class III by 1/1/12, and 100% by 1/1/13, or the payment to the State will treat Class II machines as Class III. No more Class II machines may be purchased after the effective date of the compact.
4. The Initial Period consists of the first 24 calendar months of the agreement.
5. The First Revenue Sharing Cycle is the 12 month period beginning with the 25th month of the agreement; the Second Revenue Sharing Cycle begins with the 37th month of the agreement; and the Third Revenue Sharing Cycle begins with the 49th month of the agreement.
6. For the Initial Period, the Tribe agrees to pay the State \$12.5 million per month.
7. Beginning with the First Revenue Sharing Cycle, Revenue Share will be calculated as follows:
 - 12% of first \$2.0 billion in Net Win
 - 15% of Net Win between \$2.0 billion and \$3.0 billion
 - 17.5% of Net Win between \$3.0 billion and \$3.5 billion
 - 20% of Net Win between \$3.5 billion and \$4.0 billion
 - 22.5% of Net Win between \$4.0 billion and \$4.5 billion
 - 25% of Net Win in excess of \$4.5 billion
8. Guaranteed minimum payments are \$233 million for the First and Second Revenue Sharing cycles, and \$234 million for the Third Revenue Sharing Cycle.
9. The Tribe will continue to pay \$12.5 million by the 15th day of each month following each month that the Tribe conducts Class III gaming prior to the Effective Date of the compact.
10. The Tribe will pay an annual oversight payment of no more than \$250,000, indexed for inflation.
11. The Tribe will make an annual donation to the Florida Council on Compulsive Gambling as an assignee of the State in an amount not less than \$250,000 per Facility.
12. The compact grants the Tribe exclusive rights to offer the covered games. If any new forms of Class III gaming or other casino-style gaming (with some exclusions) are offered after February 1, 2010, payments will cease. Payments are reduced and not eliminated under certain circumstances.
13. The compact has a term of 20 years, except that the authorization to conduct banked card games lasts only five years. If the authorization to conduct banked games is terminated, then the Net Win from Broward County will be excluded from the calculation of Revenue Share.

The Governor is authorized to execute an agreement with the Tribe related to applying state taxes on persons and transactions in Indian lands, in particular sales tax on transactions by non-tribal members. Such an agreement would not become effective until ratification by the Legislature.

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The moneys paid by the Tribe under the compact will be deposited into the General Revenue Fund, with the exception of 3% which will be designated as local government share and be distributed to individual local governments as delineated in the bill.

Any moneys remitted by the Tribe before the effective date of the compact shall be deposited into the General Revenue Fund and are released to the state without further obligation or encumbrance.

Sections 4-25 of Ch. 2009-170, Laws of Florida, will become effective July 1, 2010. The major provisions of these sections for purposes of assigning a fiscal impact are as follows:

1. Cardroom hours of operation are increased from 12 hours per day to 18 hours per day Monday through Friday and 24 hours per day on the weekends and specified state holidays.
2. All cardroom wagering limits are removed.
3. Certain Jai Alai permitholders are eligible to convert their permits to Greyhound permits.
4. A Quarterhorse permitholder may substitute 50% of their races for thoroughbred races
5. A Quarterhorse permit may under certain circumstances convert to a limited not-for-profit thoroughbred permit
6. The payment frequency for Pari-mutuel Taxes is changed from weekly to monthly beginning July 1, 2012
7. The payment frequency for Slot Machines Taxes is changed from weekly to monthly beginning July 1, 2012
8. A facility in Broward or Miami-Dade counties may become eligible to have slot machines provided it has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machines license. This would allow Hialeah to begin operation in 2011-12.
9. The tax rate on slot machine revenues is reduced from 50% to 35%.
10. The initial and renewal slot machine license fees are reduced from \$3.0 million currently to \$2.5 million beginning July 1, 2010 and to \$2.0 million beginning July 1, 2011.

SECTION 2: DESCRIPTION OF DATA AND SOURCES

Impacts for HB7011 adopted on 2/5/10

Nevada Gaming Revenue Report, December 2009

Revenue Estimating Conference on Slot Machines, February 2010 forecast

La Fleur's Fiscal 2009 VLT Special Report

Casino City's Indian Gaming Industry Report, 2009-10 Edition

Information from the Seminole Tribe concerning current numbers of machines, table games, and poker tables.

SECTION 3: METHODOLOGY (INCLUDE ASSUMPTIONS AND ATTACH DETAILS)

See attached

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SECTION 4: PROPOSED FISCAL IMPACT

Tax Source	Issue	2010-11		2011-12		2012-13		2013-14	
		Total		Total		Total		Total	
		Cash	Recurr	Cash	Recurr	Cash	Recurr	Cash	Recurr
Pari-Mutuel Tax	Cardroom additional hours	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5
Pari-Mutuel Tax	Cardroom increased betting limits	1.3	1.3	1.3	1.3	1.3	1.3	1.3	1.3
Slot Machines Licenses	Hialeah operating slots	0.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Slot Machines Tax	Hialeah operating slots	0.0	17.9	9.1	18.3	18.7	18.7	19.1	19.1
Pari-Mutuel Tax	Jai-Alai Permit convert to Greyhound Permit	0.0	0.6	*	0.6	0.6	0.6	0.6	0.6
Slot Machines Licenses	License fee, reduction to \$2.5 million in 2010-11 and \$2.0 million in 2011-12	(3.0)	(6.0)	(6.0)	(6.0)	(6.0)	(6.0)	(6.0)	(6.0)
Pari-Mutuel Tax	Monthly Payment frequency beginning July 1, 2012	0.0	0.0	0.0	0.0	(2.3)	0.0	0.0	0.0
Slot Machines Tax	Monthly Payment frequency beginning July 1, 2012	0.0	0.0	0.0	0.0	(12.8)	0.0	0.0	0.0
Pari-Mutuel Tax	Quarterhorse permit convert to a limited non-for-profit thoroughbred permit	0.0	0.3	0.1	0.3	0.3	0.3	0.3	0.3
Pari-Mutuel Tax	Quarterhorse permitholder substitute 50% of their races for thoroughbred	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Slot Machines Tax	Reduction in tax rate to 35% with floor equal to 2008-09 collections	(25.0)	0.0	(14.2)	0.0	(8.7)	0.0	0.0	0.0
TOTALS		(24.9)	17.9	(5.9)	18.3	(5.1)	18.7	19.1	19.1

Indian Gaming:

State Impact:	FY 2009-10	FY 2010-11	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
All Funds	Cash	Cash	Annualized	Cash	Cash	Cash
Scenario 1	287.5	150.0	150.0	150.0	233.0	233.0
Scenario 2	287.5	150.0	150.0	150.0	233.0	233.0
Scenario 3	287.5	150.0	150.0	150.0	233.0	239.4
Scenario 4	287.5	150.0	150.0	150.0	280.8	289.5

The proposed amendment to make the effective date of the Pari-mutuel and Slots provisions “Upon Becoming Law” would have the following additional impact on 2009-10 receipts:

Cardroom Additional Hours +\$\$.2m
 Cardroom Increased Betting Limits +\$\$.2m
 Slots Reduction in Tax rate -\$\$.1m

SECTION 5: CONSENSUS ESTIMATE (ADOPTED 4/12/10) The conference adopted the proposed estimates for the Pari-mutuel and Slot Machines issues. For the Indian Gaming Compact, the conference adopted as cash estimates the initial payments and the guaranteed minimum payments, with the recurring impact equal to \$150.0 million. Additionally, HB7221 has a 2009-10 impact of +\$.4 million GR, and -\$8.1 million Educational Enhancement Trust Fund.

	FY 2009-10	FY 2010-11	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
	Cash	Cash	Annualized	Cash	Cash	Cash
General Revenue—Slots Licenses	0	(3.0)	(4.0)	(4.0)	(4.0)	(4.0)
General Revenue—Pari-mutuel Tax	0	3.1	4.0	3.2	1.7	4.0
General Revenue—Indian Gaming	287.5	145.5	145.5	145.5	226.0	226.0
General Revenue—Service Charge	0	Insignificant	Insignificant	Insignificant	Insignificant	Insignificant
EETF—Slot Machines Tax	0	(25.0)	17.9	(5.1)	(2.8)	19.1
Pari-mutuel wagering TF--oversight	0	.2	.3	.3	.3	.3
Total State Impact	287.5	120.8	163.7	139.9	221.2	245.4
Total Local Impact—Indian gaming	0	4.5	4.5	4.5	7.0	7.0
Total Impact	287.5	125.3	168.2	144.4	228.2	252.4

Indian Gaming Compact
CS/SB622, PCB SICR 10-03

Scenarios 1,2, and 4: Go forward from the current 10,105 machines, using that as the 2009-10 average

Use a gross up for banked card games 25% 2009-10, 30% 2010-11, and 35% 2011-12

Note--this represents gross revenues, not the increase over the current situation

Assumes first payment July 2010 (effective date June 1, 2010)

Scenario 1: \$200 per machine per day, 80% class III on 1/1/12, 100% on 1/1/13, no growth in machines going forward							
	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	
Number of Machines	10,105	10,105	10,105	10,105	10,105	10,105	
% Change		0%	0%	0%	0%	0%	
% Machines Class III	80%	80%	90%	95%	100%	100%	
Number of Class III Machines	8,084	8,084	9,095	9,600	10,105	10,105	
Net Win per Day per Machine	200	200	200	200	200	200	
Net Win from Slots	590	590	664	701	738	738	
% Change		0%	13%	6%	5%	0%	
Grossed up for Banked Card Games		738	863	946	996	996	
Calculated Revenue Share		88.5	103.6	113.5	119.5	119.5	
Initial Period Payment		150.0	150.0				
Revenue Share				233.0	233.0	234.0	

Scenario 2: \$225 per machine per day, 95% class III currently, 100% on 1/1/13, no growth in machines going forward							
	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	
Number of Machines	10,105	10,105	10,105	10,105	10,105	10,105	
% Change		0%	0%	0%	0%	0%	
% Machines Class III	95%	95%	95%	98%	100%	100%	
Number of Class III Machines	9,600	9,600	9,600	9,852	10,105	10,105	
Net Win per Day per Machine	225	225	225	225	225	225	
Net Win from Slots	788	788	788	809	830	830	
% Change		0%	0%	3%	3%	0%	
Grossed up for Banked Card Games		985	1,025	1,092	1,120	1,120	
Calculated Revenue Share		118.3	123.0	131.1	134.4	134.4	
Initial Period Payment		150.0	150.0				
Revenue Share				233.0	233.0	234.0	

Scenario 3 (1)							
	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Net Win	966	1,063	1,382	1,727	1,900	1,995	1,995
% Change		10%	30%	25%	10%	5%	0%
Calculated Revenue Share			165.8	207.3	228.0	239.4	239.4
Initial period payment			150.0	150.0			
Revenue Share					233.0	239.4	239.4

Scenario 4: \$325 per machine per day, 95% class III currently, 100% on 1/1/13, some growth in machines for first two years							
	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	
Number of Machines	10,105	12,126	14,551	14,551	14,551	14,551	
% Change		20%	20%	0%	0%	0%	
% Machines Class III	95%	95%	95%	98%	100%	100%	
Number of Class III Machines	9,600	11,520	13,824	14,187	14,551	14,551	
Net Win per Day per Machine (2)	325	325	325	325	325	325	
Net Win from Slots	1,139	1,367	1,640	1,683	1,726	1,726	
% Change		20%	20%	3%	3%	0%	
Grossed up for Banked Card Games		1,708	2,132	2,272	2,330	2,330	
Calculated Revenue Share		205.0	259.8	280.8	289.5	289.5	
Initial Period Payment		150.0	150.0				
Revenue Share				280.8	289.5	289.5	

Note--this represents gross revenues, not the increase over the current situation

Assumes first payment July 2010 (effective date June 1, 2010)

(1) Based on last year's study done by Amy Baker relating the size of the tribe's operation to their Net Win, based on information concerning that relationship in other locations

Recurring Options

	2010-11	2011-12	2012-13	2013-14
Recurring Equal to intial payment	150.0	150.0	150.0	150.0
Recurring Equal to guarantee	150.0	150.0	233.0	233.0
Recurring equal to guarantee less table games	150.0	150.0	172.6	172.6
Recurring equal to guarantee less Broward (1/2) and less other facilities table games	150.0	150.0	86.3	86.3