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FISCAL IMPACT REPORT

SPONSOR Clahchischilliage ORIGINAL DATE 02/21/13
LAST UPDATED _____ HB 610
SHORT TITLE Native Americans on Gaming Control Board SB _____
ANALYST Martinez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY13 | FY14 | FY15 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------|-------|-------|----------------------|------------------------------|------------------|
| Total | \$5.7 | \$5.7 | \$5.7 | \$17.1 | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Gaming Control Board (GCB)

SUMMARY

Synopsis of Bill

House Bill 610 (HB 610) increases the Board membership by two members to seven members of which the two new members shall be appointed by the governor from a list of names provided by the tribal gaming agencies and are unpaid positions.

The bill amends Section 1, 60-2E-5 (Gaming Control Board created) as follows:

A. The "gaming control board" is created and consists of [~~five~~] seven members. Four members are appointed by the governor with the advice and consent of the senate, two members are appointed by the governor from a list of names provided by the tribal gaming agencies and one ex-officio member is the [~~chairman~~] chair of the state racing commission.

the two appointed members from the list of names provided by tribal gaming agencies shall have knowledge of federal, state and tribal gaming laws;

F. No more than [~~three~~] four members of the board shall be from the same political party.

- G. The public member, ~~[and]~~ ex-officio member ~~[of the board]~~ and members appointed from the list provided by the tribal gaming agencies shall not receive salaries for their work for the board.

FISCAL IMPLICATIONS

Assuming that the Board would hold twelve regular meetings and twenty working sessions each year, the bill would increase the costs of per diem paid to the Board members by \$5.7 thousand annually. This estimate is based on the assumption that current per diem rates remain in effect and that the two newly appointed the Board members were from the Albuquerque area.

SIGNIFICANT ISSUES

The Gaming Control Board (GCB) comments:

The Gaming Control Act currently prohibits a Board member from having an equity interest in a licensee. The intent of that provision is to remove any potential conflict of interest with respect to regulation that could result in a Board member protecting a personal financial interest. The legislation does not include language that provides an analogous level of protection from conflict of interest by prohibiting the Tribal Gaming Agency from submitting the name of any individual who is an enrolled member of a gaming tribe, is a member of a Tribal Gaming Agency, is an employee of any Tribal Gaming establishment, or is a contractor or vendor for any Tribal Gaming Establishment. The bill would therefore allow appointees to have a direct or indirect financial interest in tribal gaming operations.

In terms of basic qualifications, the bill as written requires knowledge but no experience with respect to gaming. The public member is required to have both knowledge and experience concerning business management and financing. As written the bill does not afford the Governor the ability to screen applicants to determine the breadth of their knowledge to determine that her appointees to the Board have the requisite knowledge to provide effective service. The basic qualifications should be better defined, rather than simply “knowledge of federal, state and tribal gaming laws.”

The Board currently has three full-time members who through their daily work and interaction have a full and complete working knowledge of the gaming industry in New Mexico. That is supplemented by two additional members who bring perspectives from the horse racing industry and the business community. Gaming in New Mexico was authorized as a means to save horse racing and to grow the agricultural industries that are related to horse racing. The business community has representation on the Board to protect the interests of the business community and to assist the Board in making decisions related to business viability of applicants for gaming licenses.

The new legislation also creates an imbalance in terms of representation. The legislation would create two positions for one segment that is not subject to regulation by the Gaming Control Act and has limited involvement and interaction with the GCB. The interaction between the GCB and Tribal Gaming Operations is through the Board’s appointed State Gaming Representative who monitors compliance with the Tribal-State Gaming Compacts. The Board has no other regulatory authority with respect to Tribal Gaming Operations.

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Finally, this legislation permits Tribal Gaming Agencies to appoint two members to the GCB. The GCB is charged with regulatory oversight of the gaming entities that compete with the tribal gaming operations. In effect, the tribal gaming operations would be placing individuals of their choosing on a body that regulates their competition.

RM/svb:blm