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FISCAL IMPACT REPORT

SPONSOR Munoz ORIGINAL DATE 03/03/21
LAST UPDATED _____ HB _____
SHORT TITLE Gaming Machine Operating Hours SB 380
ANALYST Nichols

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Gaming Control Board revenue reports

Responses Received From

Gaming Control Board (GCB)

SUMMARY

Synopsis of Bill

Senate Bill 380 amends the Gaming Control Act to add an exception to the limitation on the total number of hours per week in which gaming machines may be operated by racetrack gaming operator licensees, providing that the time used for gaming machine maintenance or staff training does not count towards total time allowed for gaming machine operations.

The bill also adds language to statute providing that a gaming operator does not have to cease gaming machine operations if the Gaming Control Board's (GCB) central monitoring system is unavailable, if the machines are sufficiently monitored by a third party.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

None anticipated, although the bill does not specify who would bear the cost of establishing and maintaining a third-party monitoring system at racetrack casinos. If the state were responsible for these costs, there could be an operating budget impact to GCB.

SIGNIFICANT ISSUES

The bill does not define the “third party” that would monitor gaming machines, so it is unclear what type of organization or company would perform this work, who would pay to establish and maintain such a system, and whether GCB would have oversight of a third-party system. Per the Gaming Control Act, GCB must operate a “central system” into which all licensed gaming machines are connected that is capable of continuously monitoring, retrieving, and auditing the operations, financial data, and program information of gaming machines, as well as disabling machines that do not comply with the act. It is not clear if a third-party monitoring system would meet these requirements. Using a third party for gaming operations monitoring could remove some of the state’s ability to monitor gaming and ensure compliance, and could also affect GCB’s ability to report financial data to the Taxation and Revenue Department.

GCB notes that gaming is a highly regulated industry, and it would be important that any third party system be reviewed and approved by GCB to protect all stakeholders and maintain the integrity of gaming in New Mexico.

The bill does not define “unavailable” or describe what type of situation would trigger monitoring by a third party. GCB is not aware of problems occurring with the central monitoring system that would affect gaming machine operations, especially to the extent that would require a third party to monitor operations. The agency notes that agency staff are available during gaming operation hours to assist with any system issues that arise, and the agency is not aware of system maintenance or personnel training affecting gaming operations.

Hourly limits on gaming operations – no more than 18 hours in any one day and 112 in any one week – are set in the state’s tribal gaming compact, the agreement between the state and all gaming tribes that sets limits on both tribal and non-tribal gaming. If SB380 were to result in an expansion of gaming hours of non-tribal casinos, such an expansion could risk violating the tribal gaming compact and voiding the state’s revenue-sharing agreement with tribes.

PERFORMANCE IMPLICATIONS

Use of a third-party monitoring system, especially if not approved and overseen by GCB, could affect the agency’s ability to monitor gaming activities and ensure compliance with gaming statutes.

CONFLICT, RELATIONSHIP

As mentioned above, SB380 could conflict with the state’s tribal gaming compact if allowable gaming hours were expanded, risking the state’s revenue-sharing agreement with tribes.

OTHER SUBSTANTIVE ISSUES

GCB’s contract for its central monitoring system expires in December 2021. The agency received a special appropriation of \$2.5 million for FY21 to procure a new monitoring system and anticipates the new system will be functioning by the time the current contract terminates.

The state collects money from gaming in two key ways: revenue sharing from tribal casinos, and taxing revenues from racetrack casinos and other licensed operators. Non-tribal casino revenues

are taxed at 26 percent of slot gaming net win and licensed non-profits and fraternal organizations are taxed at 10 percent. In FY19, revenue from tribal casino revenue sharing was \$78.3 million and tax revenue from non-tribal operators was \$64.7 million.

The tribal gaming compact lays out conditions for revenue sharing, wherein tribal casinos remit a portion of casino revenues from Class III games to the state. Generally, mechanical, electromechanical, and electronic games are subject to revenue sharing and table games (those that rely on a casino attendant to play) are not subject to revenue sharing. The compact allows for six racetrack casino licenses, although there are currently only five such casinos in operation. In addition to limiting gaming hours, the compact also limits the number of slot machines to 600 per racetrack casinos, or 750 with approval from GCB and the New Mexico Racing Commission.

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