

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Treasury

Bureau name:

Michigan Gaming Control Board

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2020-11 TY

Title of proposed rule set:

Fantasy Contests

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

Section 2(d) of the Fantasy Contests Consumer Protection Act, MCL 432.502(d), defines the term “fantasy contest” in a manner consistent with the Unlawful Internet Gambling Enforcement Act of 2006, 31 USC 5361 to 5367.

Otherwise, there are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

A. Are these rules required by state law or federal mandate?

These rules are authorized under section 10 of the Fantasy Contests Consumer Protection Act of 2019, PA 159, MCL 432.510, which provides that the “board shall promulgate rules to implement this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, including, but not limited to. . . any . . . rule the board determines is necessary to ensure the integrity of fantasy contests.” MCL 432.510(f). In addition, section 3(5) of the Fantasy Contests Consumer Protection Act, MCL 432.503(5), provides that the Board may promulgate rules related to the conduct of fantasy contests.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

There are no applicable federal standards.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

Each state establishes its own laws, rules, and standards for licensing and regulation of fantasy contests. In drafting the proposed rules, the Board identified several key objectives, including: (a) implementing the requirements and public policy goals of the Fantasy Contests Consumer Protection Act, MCL 432.501 to 432.516, to protect Michigan participants in fantasy contests; (b) creating a regulatory environment that is the least burdensome for those required to comply; (c) aligning corresponding provisions of the proposed fantasy contest rules with the Board's existing gaming regulations, where practicable, to reduce the regulatory burden on impacted parties and improve regulatory efficiency; (d) leveraging the Board's experience regulating casino gaming, internet gaming, and internet sports betting; and (e) recognizing that fantasy contests are not classified as casino gambling, internet gaming, or internet sports betting under state law and, therefore, may be held to a different regulatory standard.

To assist in accomplishing these objectives, the Board analyzed laws and regulations of other jurisdictions relating to fantasy contests. Since fantasy contests are an interstate product, the proposed rules are intended to work in conjunction with other states' regulations. Best practices and standard operating procedures from other jurisdictions are reflected throughout the proposed rules. In addition, the proposed rules incorporate feedback from industry stakeholders, many of whom operate in other jurisdictions and have practical experience navigating the regulatory landscape surrounding fantasy contests.

The proposed rules are conceptually consistent with fantasy contest standards in similarly situated states. Similarly situated states include Indiana, Ohio, and Pennsylvania, which are comparable across several factors, including: authorization of fantasy contests; regulation of fantasy contests alongside forms of gaming (e.g., land-based casinos, internet gaming, internet sports betting, etc.); geographic location; market size; operating and regulatory structure; statutory requirements; and regulatory history and experience.

The proposed rules are largely consistent with standards in similarly situated states in key areas that align with the public policy objectives of the Fantasy Contests Consumer Protection Act, MCL 432.501 to 432.516, including licensing, fantasy contest player protection, procedures and internal controls, and audit. Where differences exist, such differences generally are immaterial and/or can be attributed to one or more of the following:

(a) Rules designed to support and implement the requirements and public policy objectives of the Fantasy Contests Consumer Protection Act, MCL 432.501 to 432.516. Corresponding requirements may not exist or may differ in similarly situated states.

(b) Rules that align with corresponding provisions of MGCB's existing rules governing commercial casino gaming, internet gaming, and/or internet sports betting. This alignment will reduce the regulatory burden for persons required to comply with multiple rulesets and will improve regulatory efficiency for all persons subject to the proposed rules.

(c) Rules designed to minimize the regulatory burden on persons required to comply. Certain requirements that exist in other states were modified or excluded, where deemed appropriate by the Board, to eliminate any unnecessary regulatory burden.

(d) Rules that reflect and are considered necessary and appropriate based on the Board's regulatory experience.

(e) Rules designed to reduce ambiguity and provide greater certainty and clarity.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The proposed rules are largely consistent with fantasy contest standards in similarly situated states and, in some cases, impose a lesser regulatory burden. Where the proposed rules exceed other states' standards to a material degree, such deviations can generally be attributed to one or more of the factors listed above and, in the Board's opinion, are necessary for the proper licensing and regulation of fantasy contests (including the protection of fantasy contest players). In general, the Board does not expect any deviations to substantially increase regulatory costs for fantasy contest operators and licensed management companies.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

Generally, the proposed rules do not duplicate, overlap, or conflict with other laws, rules, or legal requirements.

The Fantasy Contests Consumer Protection Act, MCL 432.501 to 432.516, authorizes fantasy contests conducted by licensed fantasy contest operators, by casinos licensed under the Michigan Gaming Control and Revenue Act, MCL 432.201 to 432.226, and by Indian tribes which lawfully conduct class III gaming in a casino located in Michigan and which hold a license under either the Lawful Sports Betting Act, MCL 432.401 to 432.419, or the Lawful Internet Gaming Act, MCL 432.301 to 432.322.

The proposed rules do require fantasy contest operators and licensed management companies to comply with and notify the Board upon the happening of certain events under applicable provisions of the Bank Secrecy Act of 1970, 31 USC 5311 to 5332, but only to the extent such provisions apply to the person's fantasy contest operations. Moreover, a publicly traded corporation must also meet reporting requirements set forth by the U.S. Securities and Exchange Commission. The proposed rules do not extend to a fantasy contest operator or licensed management company any requirements of the Bank Secrecy Act of 1970, 31 USC 5311 to 5332, or U.S. Securities and Exchange Commission that are not already applicable to the person.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The proposed rules have been coordinated, to the extent practicable, with applicable reporting requirements of the Bank Secrecy Act of 1970, 31 USC 5311 to 5332, and reporting requirements of the U.S. Securities and Exchange Commission.

The Fantasy Contests Consumer Protection Act, MCL 432.501 to 432.516, authorizes fantasy contests conducted by licensed fantasy contest operators, by casinos licensed under the Michigan Gaming Control and Revenue Act, MCL 432.201 to 432.226, and by Indian tribes which lawfully conduct class III gaming in a casino located in Michigan and which hold a license under either the Lawful Sports Betting Act, MCL 432.401 to 432.419, or the Lawful Internet Gaming Act, MCL 432.301 to 432.322.

Fantasy contests are authorized separate from casino gaming conducted under the Michigan Gaming Control and Revenue Act, MCL 432.201 to 432.226, internet sports betting conducted under the Lawful Sports Betting Act, MCL 432.401 to 432.419, and internet gaming conducted under the Lawful Internet Gaming Act, MCL 432.301 to 432.322. Nevertheless, the proposed rules have been coordinated, to the extent practicable, with these laws and their related administrative rules. Efforts were undertaken to minimize duplication where appropriate.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(8) does not apply to the proposed rules.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(9) does not apply to the proposed rules.

Purpose and Objectives of the Rule(s)

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The rules establish a framework for a secure, responsible, fair, and legal system of fantasy contests in Michigan.

The Fantasy Contests Consumer Protection Act, MCL 432.501 to 432.516, was enacted on December 20, 2019, and authorized the operation, conduct, and offering of fantasy contests which were already occurring in this state.

By its own terms, the act was created to regulate the conduct of fantasy contests; to protect Michigan participants in fantasy contests; to require licensing of the operators of fantasy contests; to impose fees on the operators; to provide for the powers and duties of the Board in overseeing fantasy contests in Michigan; to prohibit violations of the Fantasy Contests Consumer Protection Act; and to prescribe civil sanctions and penalties.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

There is no expected change in frequency of the targeted behavior.

B. Describe the difference between current behavior/practice and desired behavior/practice.

There is no difference between the current behavior and the desired behavior except fantasy contests will have a regulatory structure made to protect the public interest in a secure, responsible, fair, and legal system of fantasy contests.

C. What is the desired outcome?

The desired outcome of promulgating these rules is to administer, regulate, and provide for the enforcement of the Fantasy Contests Consumer Protection Act, MCL 432.501 to 432.516. As such, the promulgation of these rules will do all of the following:

- (a) Set requirements for fantasy contest operators to implement commercially reasonable procedures to prevent prohibited persons from participating in fantasy contests.
- (b) Set conditions and requirements for suspending a fantasy contest player account.
- (c) Set protections for fantasy contest players participating in a fantasy contest, including requirements for providing fantasy contest players with access to information on playing responsibly.
- (d) Set self-restriction and responsible gaming requirements.
- (e) Set requirements for applicants and licensees to identify key persons, designate at least one key employee, and inform the Board prior to anticipated or actual changes in key persons.
- (f) Set requirements for fantasy contests, fantasy contest player accounts, and fantasy contest platforms.
- (g) Define prohibited athletic events.
- (h) Set reporting requirements for fantasy contest operators and licensees.
- (i) Define types of records and the length of time that records must be kept.
- (j) Set the ways in which a fantasy contest player may fund his or her fantasy contest player account.
- (k) Set the qualifications, standards, and procedures for approval and licensure by the board of fantasy contest operators and management companies.
- (l) Prescribe requirements related to beginning players and highly experienced players.
- (m) Adopt procedures for contested case hearings in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.
- (n) Set requirements for fantasy contest integrity monitoring.
- (o) Set procedures and internal controls.
- (p) Set independent audit requirements.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The regulatory structure is designed to protect the public interest in a secure, responsible, fair, and legal system of fantasy contests. The harm resulting from the behavior the proposed rules are designed to alter includes:

- (a)Offering fantasy contests in this state without a license, except as otherwise provided in the act.
- (b)Willfully failing to report, pay, or truthfully account for any license fee or tax imposed by the act, or willfully attempting in any way to evade or defeat the license fee or tax.
- (c)Cheating and the use of unauthorized scripts, proxy servers, and protected information to enter or participate in a fantasy contest.
- (d)Allowing an individual under the age of 18 to open, maintain, or use in any way a fantasy contest player account, or to participate, or attempt to participate in a fantasy contest.
- (e)Allowing a prohibited person to open, maintain, or use in any way a fantasy contest player account, or to participate, or attempt to participate in a fantasy contest.
- (f)Allowing persons to enter or participate in fantasy contests in a manner that undermines their fairness and integrity.

In addition, continued proliferation of unregulated fantasy contests poses certain risks to both participants and the state, including:

- (a)Lack of mechanisms to ensure that persons involved in the conduct of fantasy contests are suitable and that profits are not used for illicit purposes.
- (b)Lack of mechanisms to protect fantasy contest players, their personal information, and their funds.
- (c)Lack of responsible gaming tools and programs, including self-restriction.
- (d)Lack of procedures to protect the integrity of fantasy contests and the athletic events which collectively determine the outcome of a fantasy contest.
- (e)Lack of revenue to the state in the form of taxes.
- (f)Lack of standards for the creation and use of fantasy contest player accounts, including age and identity verification and player security and privacy.
- (g)Lack of auditing to ensure fantasy contests are conducted in accordance with relevant standards.

A. What is the rationale for changing the rules instead of leaving them as currently written?

There are currently no rules.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed fantasy contest rules provide protections for the public in the following ways: (a) setting forth self-restriction and responsible gaming measures; (b) providing for fantasy contest integrity monitoring; (c) providing the Board with oversight capabilities; (d) providing protections for fantasy contest players when setting up an account, paying an entry fee, and participating in a fantasy contest; (e) setting qualifications, standards, and procedures for approval and licensure of fantasy contest operators and management companies; (f) adopting standards and procedures for the protection of fantasy contest players, their personal information, and their funds; (g) setting procedures and internal controls for fantasy contest operators and licensed management companies; (h) preventing prohibited persons from participating in fantasy contests; (i) preventing restricted individuals from participating in fantasy contests from which they are restricted; (j) preventing persons from participating in fantasy contests in a manner that would undermine their fairness and integrity; (k) ensuring the availability of fantasy contests open only to beginning players; and (l) ensuring players are provided with sufficient information regarding fantasy contests and fantasy contest player accounts. These measures are designed to protect the public interest in a secure, responsible, fair, and legal system of fantasy contests while at the same time promoting a regulatory environment that is the least burdensome alternative for those required to comply.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

There are currently no rules so none are obsolete or unnecessary.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

The Board submitted a request for ongoing appropriation for \$500,000 starting in fiscal year 2021. The Board received appropriations of \$500,000 for fiscal year 2021 and \$498,400 for fiscal year 2022. The Legislature approved an additional one-time appropriation of \$225,000 for fiscal year 2021. These appropriations will cover the general administration of the Fantasy Contests Consumer Protection Act, MCL 432.501 to 432.516. The Board will need to hire and/or allocate staff to properly license fantasy contest operators and management companies that require licensure under the act and proposed rules. This includes hiring and/or allocating departmental technicians, financial analysts, and regulation officers to process applications including review for suitability. The Board will also hire and/or allocate auditors, analysts, regulation officers, and specialists to interpret and enforce the law, administrative rules, and procedures and internal controls. With the addition of staff, the Board will incur additional costs related to telecommunications, travel, office supplies, building occupancy, SWCAP, Civil Service annual assessment, and other administrative fees. The appropriations also include support for IT applications required for the new program, additional user license fees and renewals, document storage, and IT equipment. Additionally, the Board may need to contract with a consultant for assistance with more complex investigations related to suitability of applicants, sale of ownership, international conversion/translation, or any other potential situation that could require additional expertise.

The Fantasy Contests Consumer Protection Act imposes taxes on fantasy contest adjusted revenues and requires a license fee to be paid by an applicant for a fantasy contest operator license. MCL 432.514, MCL 432.503(9). Tax revenue generated by fantasy contests for 2020 exceeded \$1.4 million. Through August 2021, tax revenue generated by fantasy contests is nearly \$1 million.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

Section 16(1) of the Fantasy Contests Consumer Protection Act creates the fantasy contest fund in the state treasury. MCL 432.516(1). Taxes provided for in the act are to be deposited into the fund. MCL 432.514(3). Upon appropriation, the Board can expend money from the fund to cover the costs of regulating and enforcing the act. MCL 432.516(3)(a). The Board has made a request for ongoing appropriation from the fantasy contest fund for \$500,000 starting in fiscal year 2021. The Legislature approved appropriations of \$500,000 for fiscal year 2021 and \$498,400 for fiscal year 2022. An additional one-time appropriation of \$225,000 was made in fiscal year 2021.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules are necessary to create a regulatory structure for lawful fantasy contests. Industry best practices and stakeholder feedback were referenced in developing the proposed rules, including: the procedures and internal controls; fantasy contest player account requirements; requirements for the conduct of fantasy contests; and independent audit requirements. To the extent licensing is provided for under other Michigan laws such as the Michigan Gaming Control and Revenue Act, MCL 432.201 to MCL 432.226, the Lawful Internet Gaming Act, MCL 432.301 to MCL 432.322, and the Lawful Sports Betting Act, MCL 432.401 to MCL 432.419, the proposed rules allow for the waiver of certain requirements to lessen the burden on applicants and licensees. Overall, the Board believes any burden placed on applicants, fantasy contest operators, and licensed management companies is necessary to protect the public interest in a secure, responsible, fair, and legal system of fantasy contests, and is generally consistent with the burden that exists in other regulated jurisdictions that share the same objectives.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

Any burden on an applicant, fantasy contest operator, or licensee is necessary to regulate fantasy contests.

Impact on Other State or Local Governmental Units

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

As new fantasy contest operators and licensed management companies begin to offer fantasy contests, tax revenue to the state will increase. There are no anticipated increases or decreases in revenues or costs to local governmental units as a result of the proposed rules. Any money remaining in the fantasy contest fund after Board expenditures for regulatory costs will be deposited into the state school aid fund. MCL 432.516(3)(b).

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

There are no anticipated or intended programs, services, duties, or responsibilities imposed on any city, county, town, village, or school district because of these proposed rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

There are no anticipated actions that a governmental unit must take to comply with these proposed rules. This does not include an Indian tribe that is a fantasy contest operator.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

No appropriations have been made to any other governmental unit because of these rules. No additional expenditures are anticipated or intended with the proposed rules.

Rural Impact

16. In general, what impact will the rules have on rural areas?

The proposed rules are not expected to impact rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rules should have no impact on public or private interests in rural areas.

Environmental Impact

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules do not have an environmental impact.

Small Business Impact Statement

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

To offer fantasy contests under the Fantasy Contests Consumer Protection Act, MCL 432.501 to 432.516, a person must (1) hold a casino license under the Michigan Gaming Control and Revenue Act, MCL 432.201 to MCL 432.226; (2) or be a federally recognized tribe which holds a license under either the Lawful Internet Gaming Act, MCL 432.301 to MCL 432.322, or the Lawful Sports Betting Act, MCL 432.401 to MCL 432.419; (3) or be licensed as a fantasy contest operator. It is unlikely any of these are small businesses.

These rules also will apply to licensed management companies that manage the day-to-day fantasy contest operations of a fantasy contest operator. It is also unlikely these are small businesses.

The Board elected not to require licensure of other suppliers and vendors (third-party providers) that provide goods and services to fantasy contest operators and licensed management companies. These are more likely to be small businesses.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

Third-party providers do not require licensure under the proposed rules. Because fantasy contests are a regulated industry, and certain fantasy contest operators must be licensed under the act, it is not possible to specifically exempt small businesses from the licensing requirements as it would create a disparity in regulation.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

It is unlikely any small businesses will be affected by the proposed rules.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The Board did not establish separate compliance or reporting requirements for small businesses. However, third-party providers generally are not subject to the compliance and reporting requirements that apply to fantasy contest operators and licensed management companies under the proposed rules. To the extent practicable, the rules were drafted to be the least burdensome on all impacted persons.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The Board did not consolidate or simplify compliance or reporting requirements for small businesses. Third-party providers generally are not subject to the compliance and reporting requirements that apply to fantasy contest operators and licensed management companies under the proposed rules.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The Board did not establish performance standards to replace design or operation standards for businesses subject to the proposed rules.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

There is no disproportionate impact on small businesses because of their size or geographical location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

It is not expected that small businesses will have any reporting costs under the proposed rules. Third-party providers generally are not subject to the reporting requirements that apply to fantasy contest operators and licensed management companies.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

It is not expected that small businesses will have any compliance costs under the proposed rules.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

It is not expected that small businesses will have any costs for legal, consulting, or accounting services under the proposed rules.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no expected costs to small businesses that will cause economic harm or adversely affect competition in the marketplace because of the proposed rules.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

There are no rules that exempt or set lesser standards for compliance by small businesses; thus, there is no cost to the Board to administer or enforce such rules. The decision not to license third-party providers is not expected to materially impact Board revenue or costs.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

There is a public interest in establishing a secure, responsible, fair, and legal system of fantasy contests. To maintain the integrity, security, and fairness of fantasy contests offered in Michigan, fantasy contest operators and licensed management companies must be licensed and/or regulated and exempting small businesses or setting lesser standards of compliance is not an option. However, to the extent third-party providers are not licensed, the public interest is not harmed as the Board retains authority to hold a fantasy contest operator or licensed management company accountable for the actions of its third-party providers and require the removal of any third-party provider.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

No small businesses were involved in the development of the proposed rules. The Board solicited and considered feedback from industry stakeholders in developing the proposed rules. Feedback was received primarily from potential fantasy contest operators.

A. If small businesses were involved in the development of the rules, please identify the business(es).

No small businesses were involved in the development of the proposed rules.

Cost-Benefit Analysis of Rules (independent of statutory impact)

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

Regulated fantasy contests are new to Michigan and, therefore, estimates of the actual statewide compliance costs are unknown. Compliance costs are expected to be consistent with costs in other regulated fantasy contest markets, and generated revenues are expected to exceed compliance costs.

Since fantasy contests are an interstate product, the proposed rules are intended to work in conjunction with other states' regulations and present minimal barriers that would prevent companies from operating in Michigan. In fact, many of the regulated industry's standard operating procedures and best practices are reflected in the rules. This will reduce or eliminate many compliance costs for fantasy contest operators and licensed management companies that operate in other states.

Fantasy contest operators and licensed management companies may experience some additional costs to comply with operational and reporting requirements that are specific to Michigan (for example, obtaining Board approval of procedures and internal controls as required under the act).

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

Fantasy contest operators and licensed management companies will be directly affected by these rules and will bear the cost.

The public will directly benefit from these rules by having a secure, responsible, fair, and legal system of fantasy contests in Michigan.

For 2020, fantasy contest operators who conducted fantasy contests as provided for in section 3(3) of the Fantasy Contests Consumer Protection Act, MCL 432.503(3), reported fantasy contest adjusted revenues of \$16.7 million and paid total fantasy contest taxes of more than \$1.4 million. Through August 2021, fantasy contest adjusted revenues are more than \$10 million with fantasy contest taxes of almost \$1 million paid to the State of Michigan. These numbers show a financial benefit – to fantasy contest operators, licensed management companies, and the state – through participation in the regulated fantasy contest industry.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

Fantasy contest operators and licensed management companies may incur some additional costs to comply with operational and reporting requirements that are specific to Michigan, but they are expected to be consistent with costs in regulated fantasy contest markets in other states. Exact amounts are unknown, but may include:

- (a) Administrative costs related to licensure.
- (b) Costs of Michigan-specific reporting requirements.
- (c) Costs to comply with certain requirements regarding the conduct of fantasy contests.
- (d) Cost to comply with certain fantasy contest account requirements.
- (e) Cost to comply with certain procedures and internal controls.
- (f) Costs to comply with independent audit requirements.

The number of fantasy contest operators and licensed management companies is unknown. In 2021, seven operators have conducted fantasy contests in Michigan under section 3(3) of the act, MCL 432.503(3).

Revenues generated by businesses that participate in the industry are expected to exceed these costs.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

Key persons are expected to experience minimal individual costs due to compliance with the licensing requirements established in the proposed rules. The rules are not expected to impose compliance costs on the public.

A. How many and what category of individuals will be affected by the rules?

Key persons will be subject to disclosure and investigation as part of an application for a fantasy contest operator license or management company license. Key persons include:

- (a) An individual who holds a 5% or greater ownership interest in an applicant or licensee, or in shares of an applicant or licensee
- (b) An individual who holds voting rights with the power to vote 5% or more of the outstanding voting rights of an applicant or licensee
- (c) A director of an applicant or licensee.
- (d) A managerial employee of an applicant or licensee who performs the function of principal executive officer, principal operations officer, or principal accounting officer, or an equivalent officer.
- (e) An affiliate of an applicant or licensee.
- (f) A director of an affiliate of an applicant or licensee
- (g) A managerial employee of an affiliate of an applicant or licensee who performs the function of principal executive officer, principal operations officer, or principal accounting officer, or an equivalent officer.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The impact will be minimal. Fantasy contests are a regulated industry where the key persons associated with fantasy contest operators and licensed management companies understand the need for scrutiny and disclosure to create a secure, responsible, fair, and legal system of fantasy contests in Michigan.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no cost reductions for businesses, individuals, groups of individuals, or governmental units because of the proposed rules.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The primary and direct benefit of the proposed rules is a secure, responsible, fair, and legal system of fantasy contests in Michigan. The secondary impact is to create a regulatory environment that is the least burdensome alternative for those required to comply. In addition, lawful fantasy contests are expected to generate tax revenue for the state school aid fund.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

As evidenced by the revenue already generated by fantasy contests, fantasy contest operators and licensed management companies will maintain or may experience a net increase in their business. It is likely some fantasy contest operators and licensed management companies will commence legal operation in Michigan for the first time. Some jobs may be created.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

Individuals or businesses will not be disproportionately affected by the rules because of their industrial sector, segment of the public, business size, or geographic location. Licensed commercial casinos and certain tribes will not be subject to licensure as fantasy contest operators; however, this is required under the act, MCL 432.503(4).

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The Board relied upon agency staff and its regulatory experience to determine the impact of the proposed rules. The Board also looked at other jurisdictions who currently regulate fantasy contests, as well as getting input from stakeholders.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The Board relied on agency staff and its regulatory experience to formulate estimates and assumptions and determine the need for the proposed rules. The Board also looked at other jurisdictions and relied on stakeholders when determining the existence and extent of the impact of the proposed rules.

Alternative to Regulation

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

To create a secure, responsible, fair, and legal system of fantasy contests in Michigan, there are no reasonable alternatives to the proposed rules.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There is no reasonable alternative to the proposed rules.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

No alternative to promulgated administrative rules, including private market-based mechanisms, is feasible to regulate fantasy contests. The Legislature has found it to be in the best interest of this state and its citizens to regulate this activity by establishing a secure, responsible, fair, and legal system of fantasy contests. Moreover, the Legislature charged the Board with supervising and ensuring the integrity of fantasy contests. MCL 432.503(5). The Board is not aware of any states that utilize a private market-based system, as opposed to a state regulatory body, for this purpose.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

Due to the nature of fantasy contests, no significant alternatives to reasonable regulation were considered during the development of the proposed rules. Significant provisions of the proposed rules are intended to align with the requirements and objectives of the Fantasy Contests Consumer Protection Act, MCL 432.501 to 432.516, and best practices observed in other states. The Board solicited feedback from industry stakeholders and incorporated many of their suggestions and revisions into the proposed rules.

Additional Information

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The rules explicitly inform persons of most requirements, including but not limited to those pertaining to licensing, procedures and internal controls, the conduct of fantasy contests, self-restriction and responsible gaming, fantasy contest player accounts, independent audits, and remittance of taxes and fees. Other information, including forms and applications, will be available on the Board's website.