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BILL ANALYSIS



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House Bill 4916 (Substitute S-1 as reported)
House Bill 4917 (Substitute S-1 as reported)
House Bill 4918 (Substitute S-1 as reported)
Sponsor: Representative Brandt Iden (H.B. 4916)
Representative Matt Hall (H.B. 4917)
Representative Michael Webber (H.B. 4918)
House Committee: Regulatory Reform
Ways and Means
Senate Committee: Regulatory Reform

CONTENT

House Bill 4916 (S-1) would create the "Lawful Sports Betting Act" to do the following:

- Allow internet sports betting to be conducted only to the extent that it was conducted in accordance with the proposed Act.
- Specify that an internet sports betting wager received by a sports betting operator or its internet sports betting platform provider would be considered gambling or gaming that was conducted in the sports betting operator's casino located in Michigan.
- Specify that the bill would not apply to internet sports betting conducted exclusively on Indian lands by an Indian tribe under a facility license.
- Except for a casino, prohibit a person from providing or making available sports betting wagering devices in a place of public accommodation in Michigan to enable individuals to place internet sports betting wagers.
- Restrict a sports betting operator to no more than one internet sports betting platform to offer, conduct, or operate internet sports betting.
- Specify that only a sports betting operator or its internet sports betting platform provider could process, accept, offer, or solicit internet sports betting wagers.
- Provide the Michigan Gaming Control Board (MGCB) the powers and duties listed in the bill and all other powers necessary to enable it to fully execute the proposed Act to administer, regulate, and enforce internet sports betting.
- Allow the MGCB to enter into agreements with other jurisdictions, including Indian tribes, to facilitate, administer, and regulate multijurisdictional sports betting by sports betting operators.
- Allow the MGCB to permit sports betting operators it licensed to accept internet sports betting wagers on any amateur or professional athletic event or other event that was not prohibited by State or Federal law and was approved by the MGCB.
- Allow the MGCB to issue a sports betting operator license only to an applicant that was either a person that held a casino license under the Michigan Gaming Control and Revenue Act or an Indian tribe that met certain criteria pertaining to existing gaming.
- Provide for the application process required to receive a sports betting operator license or sports betting supplier license, and specify that the licenses would be valid for five-year periods before requiring renewal.
- Address the type of data source a sports betting operator could use for determining the results of tier one and tier two sports bets.

- Require a sports betting operator to provide mechanisms on the internet sports betting platform that verified that an authorized participant was 21 years of age or older and that internet sports betting was limited to transactions initiated and received or otherwise made by authorized participants located in the State.
- Allow the MGCB to develop responsible gaming measures, including a statewide responsible gaming database identifying individuals who were prohibited from establishing an internet sports betting account or participating in internet sports betting.
- Specify that a person that offered internet sports betting in the State without a license would be guilty of a felony punishable by imprisonment for up to 10 years or a fine of not more than \$100,000, or both.
- Specify that a person that performed certain prohibited actions listed in the Act would be guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of not more than \$10,000.
- Require a sports betting operator to be subject to a tax of 8.4% on its adjusted gross sports betting receipts received by the sports betting operator, and specify how that money would be distributed.
- Create the "Internet Sports Betting Fund" within the State Treasury, and require certain licensure fees and revenue collected from internet sports gaming to be deposited into the Fund.
- Specify how the money from the Fund would have to be spent.
- Require a sports betting operator to provide to the MGCB a monthly report regarding its internet sports betting operations.
- Specify that a shipment of sports betting equipment would be a legal shipment of a gambling device in Michigan.
- Specify that the Act would not authorize the construction or operation of a casino that was not constructed or operating before the bill's effective date.
- Require an applicant to submit with its application a photograph and two sets of fingerprints for each individual that was subject to licensure.
- Require the Board to require a person to submit his or her fingerprints for review by the Department of State Police and the Federal Bureau of Investigation for a criminal history record check, and list further related responsibilities for the Department.

House Bill 4917 (S-1) would amend Chapter 44 (Gambling) of the Michigan Penal Code to specify that the Chapter would not apply to sports betting conducted under the proposed sports betting act.

House Bill 4918 (S-1) would amend the Code of Criminal Procedure to include in the sentencing guidelines the felony proposed in House Bill 4916 (S-1) as a Class D felony against public order with a maximum sentence of 10 years' imprisonment.

Proposed MCL 750.310d (H.B. 4917)
MCL 777.14d (H.B. 4918)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

House Bill 4916 (S-1) likely would have an indeterminate fiscal impact on the School Aid Fund (SAF), the Michigan Agriculture Equine Industry Development Fund (AEIDF), the Michigan Strategic Fund (MSF), and the City of Detroit. The bill would increase revenue to the Compulsive Gaming Prevention Fund and the First Responder Presumed Coverage Fund.

The bill would open a new area of gaming activity within the State. However, because the State already offers a substantial number of gaming opportunities and data suggest the market for existing games is relatively saturated, it is unclear the degree to which the bill would generate new gaming activity or trade-off with existing activity. Furthermore, the tax

under the bill represents a markedly lower tax rate than that imposed on other types of gaming activity within the State, meaning the bill would generate substantial incentives for casinos to direct gaming to the activity that would be allowed under the bill. The fiscal impacts illustrated below assume no substitution effect with respect to existing gaming activity, and thus likely overstate the net revenue that the bill would generate.

Under these assumptions, if the bill increased total gaming activity by 5% or 10% above current adjusted gross receipts, the City of Detroit and Tribal casinos would generate between \$120.2 million and \$240.4 million in gaming activity and between \$10.1 million and \$20.2 million in new gross revenue. Tables 1 and 2 below shows the total potential revenue generated under an 8.4% tax rate and the distribution of the tax revenue for the casinos in the City of Detroit and on Tribal land. The estimates for Tribal revenue assumes all tribes that currently make payments to the MSF/Michigan Economic Development Corporation (MEDC) participate in activities allowed under the bill. However, the true amount of revenue generated from casinos on Tribal land would depend on tribal compact agreements and the number of tribes that engaged in internet sports betting, whether or not a tribe currently makes payments to the MSF/MEDC.

Table 1

Tax Revenue Distribution of Sports Betting (in millions)				
	5% Increase		10% Increase	
	Detroit	Tribal	Detroit	Tribal
Adjusted Gross Receipts	\$72.2	\$48.0	\$144.4	\$96.0
Total Tax Revenue	\$6.1	\$4.0	\$12.1	\$8.1
Distribution				
Local Revenue Sharing	---	\$0.0	---	\$0.0
MSF/MEDC*	---	\$0.4	---	\$0.8
City of Detroit	\$1.8	---	\$3.6	---
Michigan Equine Fund	\$0.3	---	\$0.6	---
Internet Sports Betting Fund.....	\$3.9	\$3.6	\$7.9	\$7.3

**Assumes current payments to the MSF continue at current level*

Table 2

Tax Revenue Distribution of Internet Sports Betting Fund (in millions)		
	5% Increase	10% Increase
Total Internet Sports Betting Fund.....	\$7.6	\$15.1
Compulsive Gaming Prevention	\$0.5	\$1.0
First Responder	\$2.0	\$2.0
School Aid Fund	\$5.1	\$12.6

The bill could decrease payment to the MSF because of current exclusivity clauses in tribal compacts. Currently, casinos on Tribal lands make payments to local units on 2% of adjusted gross receipts under their compacts. It is unclear if the current 2% rate would continue if a tribe elected to operate under the bill's provisions or if the rate and distribution proposed under the bill would be implemented, or if Tribal operators would pay both rates.

The bill would not tax Tribal gaming activity allowed under the bill if the wagers were not placed online. Under the bill, the 8.4% tax on sports bets at Tribal casinos would be imposed only on internet gaming activity, thus exempting sports betting made at brick-and-mortar Tribal casinos. Furthermore, this activity would not be covered by existing gaming compact

provisions because the Tribal compacts only tax gaming activity on electronic games of chance. Furthermore, sports betting at Tribal casinos would be taxed at a lower level than sports betting at the Detroit casinos because the 8.4% tax on the Detroit casinos would include wagers placed at brick-and-mortar facilities.

The impact of any substitution effects, in which individuals place wagers on the sports betting that would be allowed by the bill instead of on currently authorized gaming activities, could be substantial. For example, after prizes and expenses are paid, the SAF receives approximately 27% of gross lottery sales, while under the Casino Gaming Tax, the School Aid Fund receives 8.1% of adjusted gross receipts and the City of Detroit receives 12.9% (inclusive of the development agreements) - for a combined tax rate of 21%. In comparison, the bill would impose a tax of 8.4%. As a result, for every \$100 of lottery sales redirected to sports betting allowed under the bill, the bill would need to generate an additional \$321 of new gaming activity to replace the revenue (without accounting for distribution under the bill that would not be directed to the School Aid Fund). Similarly, every \$100 of gaming activity at a Detroit casino would require an additional \$250 of new gaming activity to offset the revenue loss (again without accounting for the bill's revenue distribution formulas).

In the context of the estimates presented in Tables 1 and 2, if 25% of the gaming that occurred under the bill represented wagers that otherwise would have been spent on lottery tickets, and another 25% represented wagers that would have been made in Detroit casinos, the total revenue of \$10.1 million generated by a 5% total increase would be reduced by \$8.4 million, leaving a total net revenue increase of approximately \$1.7 million. Similarly, under the 10% scenario, the \$20.2 million in revenue from sports betting would be offset by approximately \$16.9 million in losses, leaving a net gain of approximately \$3.3 million. To the extent that any substitution effects were greater than in this example, the net revenue generated would be less, while reduced substitution effects would increase the net revenue generated under the bill.

All license and vendor fees authorized under the proposed Act would be deposited into the Internet Sports Betting Fund and would cover administrative costs necessary to promulgate rules and oversee internet sports betting. It is assumed that the Michigan Gaming Control Board would generate sufficient revenue from fees to cover the administrative costs. If fees were insufficient, the Board would be able to use the revenue generated from the 8.4% tax to cover administrative costs. However, this would reduce deposits to the SAF.

Under the assumption of a net 5% increase in gaming activity, and a 5% substitution effect, and combined with the impact of House Bill 4311 (S-1), the bills would generate additional net revenue of \$17.8 million once the deduction phased out. However, accounting for the substitution effects and the distribution of net revenues, the bills would:

- Lower revenue to the MSF by approximately \$1.2 million.
- Increase local unit revenue to host communities by \$700,000.
- Increase revenue to the AEIDF by \$900,000.
- Lower revenue to the City of Detroit by \$1.8 million (excluding hold harmless provisions).
- Increase revenue to the Compulsive Gaming Prevention Fund by \$1.0 million.
- Increase revenue to the First Provider Presumed Coverage Fund by \$4.0 million.
- Increase revenue to the SAF by \$14.0 million.

If the hold harmless provisions regarding Detroit were triggered, revenue to the City of Detroit would be unchanged, but the increase in School Aid Fund revenue would be reduced to \$12.2 million.

These figures compare to the "mid-level" scenario estimates from the Michigan Department of Treasury, which also include the impact of House Bill 4308 (S-1), and predict the bills would:

- Increase revenue to the MSF by approximately \$3.0 million.
- Increase local unit revenue to host communities by \$3.3 million.
- Increase revenue to the AEIDF by \$1.6 million.
- Increase revenue to the City of Detroit by \$13.7 million.
- Increase revenue to the Compulsive Gaming Fund by \$1.0 million.
- Increase revenue to the First Provider Presumed Coverage Fund by \$4.0 million.
- Increase revenue to the SAF by \$4.8 million.

House Bill 4917 (S-1) would have no fiscal impact on State or local government.

House Bill 4918 (S-1) would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

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