

State Notes

TOPICS OF LEGISLATIVE INTEREST

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An Overview of the Proposed Racino Legislation **by Julie Koval, Legislative Analyst**

In 1933, horse race wagering became Michigan's first legalized form of gambling. Today, the racehorse industry contributes \$1.2 billion annually to the Michigan economy, funds the State's county fairs program, and provides jobs for nearly 27,000 people, according to Michigan Agricultural Recovery and Enhancement Supporters (MARES). In 1995, however, the industry was twice as large. The racehorse industry has steadily declined with the introduction of casinos, both Indian- and privately operated, throughout the State. A May 2003 poll by the Lansing-based Marketing Resource Group (MRG) found that the number of voters who visited horse racetracks dropped from 5% last year to 1% this year.

The Michigan Legislature is considering a package of bills aimed at giving a shot in the arm to an ailing industry and generating additional revenue for the State. The four-bill package would create so-called "racinos" by permitting video lottery terminals (VLTs) to be placed at racetracks; allowing simulcasting of horse races at off-track theaters; allowing telephone and internet account wagering; and allowing horse racing simulcasts at existing casinos. The increased revenue would be directed to increased breeders' awards, agricultural enhancement programs, and the State's General and School Aid Funds.

House Bills 4609 (H-2), 4610 (H-3), and 4611 (H-1) passed the House of Representatives in May 2003 and are awaiting action by the Senate Gaming and Casino Oversight Committee. They are tie-barred to each other. House Bill 4612 (H-1) is tie-barred to the other three and remains in the House.

House Bill 4609 (H-2) would amend the Horse Racing Law of 1995 to allow pari-mutuel wagering on live and simulcast horse races at up to 15 off-track racing theaters and permit telephone and internet account wagering on horse races. The bill would define "racing theater" as an enclosed facility where patrons may view off-track telecasting and engage in off-track betting (OTB) on the results of the telecast horse races. The racing theaters would have to be located at least 10 miles from an existing racetrack.

The bill also would allow an individual to establish a wagering account with a race meeting licensee or multijurisdictional wagering hub, through which he or she could place wagers on horse races via telephone or other electronic means. (Under the bill, "multijurisdictional wagering hub" would mean a business conducted in this State and at least one other state that conducts account wagering.) The bill would provide for the distribution of money to increased breeders' awards and a newly created Agricultural Enhancement purse pool.

House Bill 4610 (H-3) would permit each of the State's seven racetracks to place up to 500 video lottery terminals (or more, with the Lottery Commissioner's approval) at their facilities, and would create the Agricultural Enhancement Fund. The net income from the VLTs would have to be distributed to breeders' awards; the Agricultural Enhancement purse pool created by House Bill 4609 (H-2); the School Aid Fund; the General Fund; commissions to race meeting licensees, who would have to give a portion to their local unit of government; the City of Detroit; and the Agricultural Enhancement Fund. The Michigan Department of Agriculture would have to use the Agricultural Enhancement Fund for programs related to such things as market development, export enhancement, quality and purity assurance, packaging, alternative energy development, research and diagnostic capabilities, racehorse rehabilitation programs, farmland preservation, educational programs that support agriculture, and food security.

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House Bill 4611 (H-1) would amend the sentencing guidelines in the Code of Criminal Procedure to designate as a Class D felony against the public trust manipulating the outcome or payoff of a video lottery game. (As proposed by House Bill 4610 (H-1), that offense would be punishable by up to 10 years in prison and/or a maximum fine of \$10,000.)

House Bill 4612 (H-1) would amend the Michigan Gaming Control and Revenue Act (MGCRA) to authorize casinos to offer race simulcasting. Legislation amending the MGCRA requires a three-quarters vote to pass, and the House of Representatives has not yet voted on the bill.

Supporters of the bills claim the package would generate renewed excitement in horse racing and help rejuvenate the agricultural industry, the State's second largest, as well as promote tourism and create jobs. They say the bills would allow racetracks to compete with the various gaming options now available to residents and attract potential new racing fans to horse tracks. Supporters also point out that increased revenue would help to preserve farmland and support education.

The bills also could be an incentive for Indian tribes to renegotiate their gaming compacts with the State, giving the State a larger cut of their revenue in exchange for maintaining exclusivity in casino gambling. Governor Jennifer Granholm recently negotiated a revision to the gaming compact of the Little Traverse Bay Band of Odawa Indians, which currently pays to the State 8% of its revenue from its casino near Petoskey. The revised compact will allow the tribe to open another casino in Mackinaw City in exchange for 10% of the first \$50 million and 12% of any additional revenue.

Opposition to the bills stems from a variety of reasons. With 17 Indian casinos and the three Detroit casinos already in operation, some wonder if Michigan has reached its gambling saturation point. If that were the case, then the new gaming options offered in the legislation simply would take business away from the existing gaming opportunities, and would not be the windfall supporters are expecting. Some say that VLTs are essentially slot machines whose addition to racetracks could draw revenue away from the existing casinos and, therefore, from State and local governments. According to a May 27, 2003, *Detroit Free Press* article, a study commissioned by the Greektown Casino states that the Detroit and Indian casinos would lose \$400 million a year if each of Michigan's racetracks installed 1,200 VLTs, resulting in a loss to the State of \$16 million and to Detroit of \$20 million in reduced taxes. Proponents, however, point to the fact that the Windsor casino did not experience a drop in revenue when the three Detroit casinos opened, nor did any Indian casinos go out of business.¹

In May 2003, the Detroit City Council unanimously adopted a resolution in opposition to the racino package, citing conclusions reached by former Governor John Engler's Blue Ribbon Commission on

¹ The experiences in states that have introduced OTB and VLT options provides a basis to estimate the effect the bills might have on Michigan tax revenues. However, many factors, which are unknown and very difficult to forecast, will affect how much revenue might be received from these new gaming options. These factors include: how many VLTs might be at each track, the effect of OTB and VLTs on existing gaming activities, and whether the State or the track would own the VLTs. Given a range of likely values for these and other assumptions, VLTs are likely to generate in fiscal year 2004-05 between \$0 and \$9.7 million in net new revenue for the School Aid Fund and \$0 and \$35.2 million for the General Fund. Track owners and others affiliated with horse racing would likely receive between \$43.8 million and \$239.9 million. Account wagering and OTB would generate between \$29.0 and \$41.5 million, all of which would go to persons affiliated with horse racing. (Information provided by David Zin, Senate Fiscal Agency economist.)

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Michigan Gaming that the loss of revenue from existing gaming venues would outweigh any benefit to the State, the horse racing industry, or agriculture.

Others point to the social costs of gambling as a reason to limit the expansion of gambling opportunities, or see the package as an attempt by the State to balance the budget by exploiting the vices of people who can least afford it. With the introduction of telephone and internet wagering, problem and compulsive gambling would most likely increase. Additionally, Lottery Commission and Department of Agriculture rules allow people to gamble at age 18, instead of 21 as required for casino gaming. The bills' opponents argue that public policy should not be anchored in legitimizing a gambling lifestyle, particularly for large numbers of young people.

Another common argument against the legislation is that it might circumvent existing law, would not be sufficiently regulated, and ignores the will of voters. Because three of the bills would amend statutes other than the MCGRA, they would not require a supermajority to pass. Furthermore, the VLTs, off-track betting, and account wagering would fall under the regulation of the State Lottery Commission and the Racing Commissioner, not the stricter scrutiny of the Michigan Gaming Control Board. When voters approved the three Detroit casinos through Proposition E in 1996, opponents claim, they were voting for the tightly controlled addition of those specific locations, and did not intend to allow an unchecked proliferation of gambling.

Racinos already operate in seven other states and Michigan is one of at least 11 states considering adding VLTs to racetracks this year, according to *Insight*, a gambling industry journal. In the MRG poll mentioned above, Michigan residents expressed support for Michigan casinos, but 66% were opposed to converting racetracks into racinos. The poll also revealed that gambling in Michigan has declined from previous years. For the first time since 1997, more than half of the residents said they had not visited a casino, purchased a lottery ticket, played BINGO, or engaged in any other gambling activity within the past year.