

SESSION OF 2015

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2074**

As Amended by Senate Committee of the Whole

Brief*

Senate Sub. for HB 2074, as amended, would amend the Kansas Expanded Lottery Act (KELA) and Parimutuel Racing Act concerning racetrack gaming facilities. Specifically, the bill would address the number of electronic gaming machines placed at racetrack facilities, the distribution of net electronic gaming machine revenue from electronic gaming machines at racetrack gaming facilities, background check requirements for certain individuals involved with the gaming facility, changes to requirements for certain organizations, and the withholding of prizes based on a check of the state debtor files.

***Number of Electronic Gaming Machines at Racetrack
Facilities***

The bill would increase the total number of all gaming machines that could be placed at all racetrack facilities to 2,800, which is the maximum number allowed by law. Current law caps the number of machines at 2,200 until lottery gaming facility management contracts for lottery gaming facilities are binding in all gaming zones. The bill also would delete language concerning the bidding process for the 600 additional gaming machines. Existing law allows lottery gaming facility managers to bid to prevent the placement of gaming machines at racetrack gaming facilities.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

***Requirements for Operating Gaming Machines in
Wyandotte County; Simulcasting***

The bill would delete the requirement that parimutuel licensees located in Wyandotte County must conduct at least 100 live greyhound races each calendar week for the same number of weeks raced during calendar year 2003, with at least 13 live races conducted each day for not less than 5 days per week, in order to have gaming machines at that facility.

The bill would amend and eliminate restrictions on the simulcasting of races to allow:

- Organizations that conduct at least 60 days of live racing during a calendar year to apply for a simulcasting license;
 - Current law requires organizations to conduct 150 days of live racing to apply for a license; and

- Fair associations that conduct fewer than 40 days of live racing during a calendar year to apply for a simulcasting license;
 - Current law requires a fair association to conduct fewer than 22 days of live racing during a calendar year to apply for a simulcasting license.

The bill also would remove other restrictions that limit the number of days fair associations may conduct simulcast races.

***Distribution of Net Electronic Gaming Machine Revenue,
Northeast Gaming Zone***

The bill would change the distribution of net electronic gaming revenue from the racetrack facility in the northeast gaming zone as follows:

- Increase the amount of revenue distributed to the racetrack gaming facility manager from 25.0 percent to 64.5 percent in the first and second year of operation and 60.5 percent every year thereafter;
- Increase revenue that goes to the Live Horse Racing Purse Supplement Fund from 7.0 to 10.0 percent in the first and second year of operation and to 14.0 percent every year thereafter;
 - Current law limits this to an average of \$3,750 per machine, per location;
- Reduce the State's share of net electronic gaming machine income credited to the Expanded Lottery Act Revenues Fund (ELARF) from 44.0 percent to 22.0 percent;
- Reduce the counties' share of net electronic gaming machine income from 3.0 percent to 2.0 percent;
 - Under the bill, cities would no longer receive a share of net electronic gaming machine income;
- Reduce the amount of net electronic gaming machine income that goes to the Problem Gambling and Addictions Grant Fund from 2.0 to 0.5 percent;
- Eliminate revenue that goes to the Live Greyhound Racing Purse Supplement Fund;

- Eliminate revenue that is to be used for gaming expenses of the racetrack gaming facility manager; and
- Leave revenue going to the Kansas Horse Fair Racing Benefit Fund at 1.0 percent.

The bill also would remove the cap on the Live Horse Racing Purse Supplement Fund for all gaming zones.

Security, Fitness, Background Investigation, and Standards Requirements for Gaming Facility Managers

The bill would change law to require examination of security, fitness, and background investigations and standards by the Kansas Racing and Gaming Commission (KRGCC) for persons owning a 5.0 percent or more ownership interest in any lottery gaming facility manager or racetrack gaming facility manager. Currently, the percentage of ownership interest that triggers examination of security, fitness, and background investigations and standards is 0.5 percent.

The bill also would include new provisions requiring the examination of security, fitness, and background investigations and standards of officers, directors, key employees, and 5.0 percent owners of lottery gaming facility managers or racetrack gaming facility managers, if publicly traded.

The bill would require the Executive Director of the KRGCC to develop a procedure for waiving background requirements for institutional investors, such as mutual funds.

Changes to Requirements for Certain Organizations

The bill would lower the application fee from \$500 to \$50 and the costs of each day of racing from \$100 to \$25 for county fair associations, horsemen's nonprofit organizations, and the National Greyhound Association of Abilene, Kansas, if:

- The association conducts not more than two race meetings each year;
- Such race meets are held within the boundaries of the county where the applicant is located; and
- Such race meetings are held for a total of not more than 40 days per year.

The bill also would specify that the investigation of these types of organizations that is required of the KRGC would include the criminal background credit history of those executives and officers specified in statute.

Required Check Against State Debtor Files; Withholding of Prizes

The bill would require any lottery gaming facility manager, racetrack gaming facility manager, or facility owner licensee to match against the state debtor files any persons winning a prize requiring completion of IRS Form W-2G before paying such prize. If the person claiming the prize is listed in the state debtor files, the prize would be required to be withheld to the extent of such person's debt as listed in the files.

Money withheld based on the state debtor files would be required to be remitted to the State Treasurer in accordance with existing law regarding the remittance of state moneys. The State Treasurer would be required to deposit the entire

amount of such money into the State Treasury and credit it to the Department of Administration's Setoff Clearing Fund.

Lottery gaming facility managers, racetrack gaming facility managers, and facility owner licensees would not be subject to civil, criminal, or administrative liability for actions taken in accordance with the bill, except in the case of intentional, malicious, or wanton actions. The bill would specify that the only legal remedy for persons claiming that prizes were wrongfully withheld would be an appeal to the Department of Administration.

The bill also would make technical amendments to KELA.

Background

The Senate Committee on Federal and State Affairs deleted the original contents of HB 2074 and inserted the contents of SB 192. The Committee recommended a substitute bill.

The Senate Committee of the Whole amended the bill by adding provisions related to lowering the application fee and costs of each day of racing for county fair associations, horsemen's nonprofit organizations, and the National Greyhound Association of Abilene, Kansas; and the withholding of prizes based on a check of the state debtor files.

SB 192

At the hearing on SB 192 before the Senate Federal and State Affairs Committee, Senator Fitzgerald and Representative Hibbard appeared in support of the bill. Also appearing in support of the bill were two representatives from the Kansas Quarter Horse Racing Association and a citizen. Written support of the bill was submitted by the Kansas Quarter Horse Association Board of Directors and a citizen.

Testimony in opposition of the bill was provided by representatives of Kansas Entertainment, LLC, and the Unified Government of Wyandotte County and Kansas City, Kansas. Written testimony in opposition to the bill was submitted by the Kansas City, Kansas, Area Chamber of Commerce and the Sumner County Economic Development Commission.

There was no neutral testimony on the bill.

The fiscal note provided by the Division of the Budget on SB 192, as introduced, indicates the bill would not require additional staffing or expenditures by the KRGC, Kansas Lottery, or any other State agency unless a contract with a racetrack gaming facility manager is approved by the Kansas Lottery and a background investigation is approved by KRGC. A racetrack would need to obtain a parimutuel license from KRGC before its officials could negotiate with the Kansas Lottery for a contract to operate electronic gaming machines.

The Kansas Lottery indicates it would need to hire two or three new employees for each new gaming facility that would open as a result of this bill. Without knowing the size of any proposed facility and when such facility might open, the Kansas Lottery is unable to estimate its gaming-related expenses. When the Kansas Lottery has negotiated contracts with gaming facility managers, it has required that all of its gaming-related expenses be reimbursed by the manager.

The KRGC indicates it would need approximately \$1.8 million and 21.0 FTE positions for each parimutuel racetrack that reopens for annual costs to regulate both the racing and gaming activities. Start-up costs of approximately \$450,000 per facility also would be needed for expenses such as background investigations, licensing equipment, software licenses, computer equipment, furniture and supplies, and other expenses associated with opening each facility. Funding for regulating racing activities has primarily come from the transfer of parimutuel tax receipts to the State Racing Fund. The appropriations bill each year provides the authority for KRGC to bill each facility for all costs related to regulating racing activity.

The Department for Aging and Disability Services indicates that additional gaming facilities would likely increase demand for services provided by the Problem Gambling Program. The Department indicates the amount of additional spending would be dependent on the number of additional facilities and would be proportional to current spending levels for problem gambling and addiction services. The Department also has concerns that additional gaming facilities and changes to the share of gaming facility revenues that is distributed to the Problem Gambling and Addictions Grant Fund would not provide adequate funding to support the Problem Gambling Program.

An estimate of the revenue that might be generated as a result of the bill cannot be made without a detailed market study, which would include an estimate as to when a facility would be operational and the size of the gaming facility. Any fiscal effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.