

HOUSE BILL REPORT

ESHB 1031

As Amended by the Senate

Title: An act relating to problem gambling.

Brief Description: Providing long-term funding for problem gambling.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Cody, Simpson, Wood, Green, McIntire, Morrell, Kenney, P. Sullivan and Darneille; by request of Governor Locke).

Brief History:

Committee Activity:

Commerce & Labor: 1/17/05, 2/23/05 [DPS];

Finance: 3/4/05, 3/7/05 [DPS(CL)].

Floor Activity:

Passed House: 3/14/05, 57-39.

Senate Amended.

Passed Senate: 4/6/05, 36-12.

Brief Summary of Engrossed Substitute Bill

- Revises the problem and pathological gambling treatment program in the Department of Social and Health Services.
- Funds the problem and pathological gambling treatment program from moneys allocated in the State Lottery Account and by a new business and occupation (B&O) tax on gambling businesses.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Conway, Chair; Wood, Vice Chair; Hudgins and McCoy.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; and Crouse.

Staff: Chris Cordes (786-7103).

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill by Committee on Commerce & Labor be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives McIntire, Chair; Hunter, Vice Chair; Conway, Hasegawa and Santos.

Minority Report: Do not pass. Signed by 4 members: Representatives Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern and Ericksen.

Staff: Mark Matteson (786-7145).

Background:

Most types of gambling activities in Washington are limited and regulated under the authority granted to the Washington State Gambling Commission (Gambling Commission). Certain gambling activities are authorized for nonprofit and charitable activities. For-profit businesses may conduct certain games as a commercial stimulant. Horse racing is regulated under the authority of the Washington State Horse Racing Commission (Horse Racing Commission).

Washington also has a State Lottery, which sponsors various lottery games ranging from "scratch" tickets, in which players discover if they are an instant winner, to "draw" games in which players wait for the random drawing of numbers to determine if they have won. In 2002, legislation was enacted to allow Washington to join the multi-state "shared game" lottery.

Uses of Lottery Revenues

Proceeds from the sale of all State Lottery products are deposited in the State Lottery Account. Until 1996, these proceeds, after payment of prizes and expenses, were deposited in the State General Fund. Beginning in 1996, a portion of State Lottery proceeds has been dedicated to assist with paying the principal and interest on bonds used to construct Safeco Field, the Mariners stadium. The initial year distribution was \$3 million, and the amount increases by 4 percent per year until the bonds are retired or 2016, whichever occurs earlier. In 2004, the debt service for the Mariners stadium received \$4 million or 0.08 percent of the total proceeds. This amount is expected to be \$4.4 million in 2006.

When the voters approved Initiative 728 in 2000, the State Lottery proceeds were redirected from the State General Fund to various education funds. In 2004, the net revenues from lottery games allocated for education were directed to the Education Construction Fund.

Problem Gambling Studies

Various studies funded by the Washington State Lottery Commission (Lottery Commission) have identified problem gambling issues. For example, a 1999 study commissioned and funded by the Lottery Commission found that 5.1 percent of Washington adults had experienced gambling problems or compulsive gambling at some point in their lives, with 2.3 percent reporting such problems in the year immediately preceding the survey. A similar Lottery Commission study, also completed in 1999, indicated that 7.5 percent of adolescents were at risk of developing gambling problems and 0.9 percent were problem gamblers.

Funding for Problem Gambling Treatment, Problem Gambling Public Awareness, and Hotline

The legislation authorizing Washington to participate the shared game lottery also established a program in the Department of Social and Health Services (DSHS) for the treatment of pathological gambling. The program was to serve people needing treatment but unable to afford it. Treatment under the program was limited to funds available to the DSHS.

For fiscal year 2003 only, the Legislature provided \$500,000 in revenue from the shared game lottery for this pathological gambling treatment program. The program operated for eight months, from November 2002 through June 2003, subsidizing treatment for 203 problem gamblers and 23 family members of problem gamblers, and providing training on treatment of problem gambling for 25 mental health professionals. The funding for the program was not extended.

The Washington State Gambling Commission, the Lottery Commission, and the Horse Racing Commission are jointly responsible for developing informational signs and maintaining a toll-free hotline telephone number for problem and compulsive gamblers. The signs advertising the hotline telephone number are posted in establishments that conduct gambling activities. The three agencies are also authorized to contract with qualified entities to provide public awareness, training, and other services related to problem gambling. Since 1991, the Lottery Commission and the Gambling Commission have spent an estimated \$3 million on problem gambling education and awareness services.

In 2002, the Gambling Commission also contributed \$150,000 to the Council on Problem Gambling to fund treatment. Since that time, however, the Gambling Commission has been advised that the statute authorizes expenditures only for public awareness and the hotline telephone. For these activities, the Gambling Commission contributed \$150,000 for fiscal year 2004-2005. In November 2004, the Gambling Commission adopted a rule imposing a problem gambling fee on its licensees. This new fee takes effect June 30, 2005, but expires if the Legislature appropriates funds for the problem gambling program.

The Council on Problem Gambling has also received contributions from various tribal governments, including about \$60,000 in 2001 and nearly \$164,000 in 2002. Private gambling interests have also contributed about \$64,000 in fiscal year 2003 to the Council.

Business and Occupation Taxes

The business and occupation (B&O) tax is Washington's major business tax. The tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited to the State General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. Examples of some of the B&O tax rates that apply to Washington businesses include: retailing, 0.471 percent; manufacturing and wholesaling, 0.484 percent; and services, 1.5 percent. Those covered business not otherwise subject to a specified tax rate pay the B&O tax at the rate of 1.5 percent.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. There are, however, exemptions for specific types of business activities, including an exemption for the business of conducting horse race meets.

Summary of Engrossed Substitute Bill:

The Problem and Pathological Gambling Program

The pathological gambling program within the Department of Social and Health Services (DSHS) is revised. The program is expanded to cover:

- the prevention, as well as the treatment, of problem and pathological gambling;
- the training of professionals in identifying and treating problem and pathological gambling; and
- the treatment of family members of problem or pathological gamblers who are unable to afford treatment and are targeted by the DSHS as most amenable to treatment.

The DSHS must establish an advisory committee to assist in designing, managing, and evaluating the program's effectiveness. Committee members must include, at least, persons knowledgeable in the field of problem and pathological gambling and persons representing tribal gambling, privately owned non-tribal gambling, and the Washington State Lottery.

The DSHS may contract for services to be provided under the program.

Funding for the Problem and Pathological Gambling Program

Gifts and Grants

The DSHS may solicit and accept gifts of money or property, grants, or funds from other private or public sources, including tribal governments.

Washington State Lottery Transfers

Beginning in fiscal year 2006, certain amounts must be deposited in the Problem Gambling Account from moneys in the State Lottery Account. In fiscal year 2006, the amount will equal 0.1 percent of net receipts, defined as the revenue received from lottery and shared game lottery ticket sales minus the payments to winners. In subsequent fiscal years, the amount deposited will equal 0.13 percent of these net receipts. These amounts are from the moneys allocated by statutory formula to assist in paying the debt service of the Mariners stadium. If the moneys dedicated to paying the debt service are insufficient to pay the debt service, the deposits to the Problem Gambling Account are not permitted.

Business and Occupation Taxes

A new B&O tax is imposed on persons engaging in the business of operating contests of chance (such as social card games, bingo, raffles, punchboard games, and pull-tabs, but not state lottery games or amusement games), or conducting horse race meets. In fiscal year 2006, the amount of the tax is 0.1 percent of a business's gross income derived from contests of chance or, in the case of a horse racing business, of the gross income derived from

parimutuel wagering. In subsequent fiscal years, the amount of tax is 0.13 percent of that gross income.

While this new B&O tax is in effect, the Gambling Commission is prohibited from increasing license fees to fund a program for problem and pathological gambling. If the Gambling Commission imposes such a fee before this bill takes effect, the fee has no effect after the bill's effective date. However, during any periods when the new B&O tax is not in effect, the Gambling Commission, Horse Racing Commission, and the State Lottery may contract for services to assist in providing treatment for problem and pathological gambling, and the Gambling Commission may increase license fees to fund the authorized services.

The Problem Gambling Account

The Problem Gambling Account (Account) is created in the State Treasury. Money in the Account may be spent only after appropriation and only for the purposes of the problem and pathological gambling program. Money transferred from the State Lottery Account and collected from the new B&O tax must be deposited in the Account.

Other Provisions

Pathological gambling and problem gambling are defined.

Various technical changes are made, including deletion of expired requirements relating to transfers of funds for the previous problem gambling treatment program and to reports to the Legislature.

EFFECT OF SENATE AMENDMENT(S):

Changes the State Lottery's share of problem gambling funding from the funds allocated to the debt service of the Mariner's stadium to the net receipts of the shared game lottery. (This changes the funding source back to the source in the original bill.)

Clarifies that the "gross income" for horse racing does not include (in addition to amounts for winning wagers) taxes or other distributions required by the horse racing statutes, and deletes a reference to income from other sources that is subject to tax under other provisions of the tax code.

Exempts businesses with gross gambling income of less than \$50,000 per year from the additional B&O tax for problem gambling.

Adds that the Problem Gambling Advisory Committee must give due consideration, in designing the problem gambling program, so that persons who hold licenses or contracts issued by the Gambling Commission, horse racing commission, or lottery commission are not excluded from applying to participate.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2005.

Testimony For: (Commerce & Labor) This bill is the product of a working group that Governor Locke convened to find a solution to the funding issue for treatment of problem gambling. The group had certain criteria to guide them: (1) the funding had to be reliable and long-term; (2) the funding should not further expand gambling, as occurred in Oregon; (3) tribal contributions had to be voluntary; (4) the program should include prevention, as well as treatment; and (5) the program should be run with minimal overhead so that most of the funding goes toward treatment. This bill meets all these criteria and funds the program by taking a share of the dollars that gamblers lose. The bill protects against double taxation on the gambling industry by prohibiting the Gambling Commission from imposing a tax for that purpose. The gambling industry is willing to pay its fair share of a treatment program's cost, as long as the revenue stream is dedicated to that purpose. But it does not want to be required to make up any shortfall that might occur in meeting the funding goal. The bill's requirement for a committee to review the program is a good idea. Governor Locke's budget includes \$1.5 million for the 2005-07 fiscal biennium. The workgroup recommended an overall budget of \$3.5 million, which if funded at that level would provide treatment to more than 600 people. It is hoped that an agreement can be reached with the Tribes that would help reach this goal. The Tribes have offered \$452,000 for problem gambling treatment programs, but these funds have not yet been received. Treatment programs work, but programs are not available in Washington. Persons seeking treatment have to be sent to programs in other states. The cost to the taxpayer of dealing with the consequences of problem gambling is much greater than the cost of treatment. These consequences include prosecuting people for criminal acts committed to raise gambling money and public assistance provided to problem gamblers' families. The personal and social costs of problem gambling can include loss of family and loss of assets, such as the home, retirement, college funds, etc. It is better to do something now than wait for the perfect solution later.

(With concerns) The Gambling Commission's new rule raises revenue to fund public awareness and education. However, if the statute authorizing this rule is changed to include treatment authority, the Gambling Commission is concerned that it may not be able to provide adequate funding to support the program, especially if the bill prohibits the new rule.

Testimony For: (Finance) This is the product of a work group that was initiated by Governor Locke and now has the support of Governor Gregoire. The program is funded within this proposal by a tax on non-tribal gambling and by using some proceeds from the Lottery. In addition, the work group has also worked to get commensurate commitments by the tribes, which have pledged almost half a million dollars for the program.

The Lottery takes no position on the bill, but would note that the expected transfers to the Education Construction Account are already less than what the statute allows for.

The Regional Gaming Association is supportive of the issue concerning problem gambling prevention and treatment. We have stepped up and agreed to contribute to this effort. Education and awareness do indeed help. We believe that this is a streamlined and reasonable approach. We do have some concern that, in the circumstance that the Gambling Commission authorize fees for these purposes, some of our members may be taxed a second time, as they have collectively already provided \$150,000 in fees for this purpose. We believe that the

moneys should be placed in a dedicated account. We are encouraged by the voluntary efforts of other gambling entities in this regard. Our members activities make up about 17 percent of the gambling pie in this state, and we are willing to pay our fair share.

The Washington State Council on Problem Gambling believes that this program is needed and strongly supports this effort.

Testimony Against: (Commerce & Labor) The funding formula in this bill will not generate adequate funds. A preferred approach would be to use (1) funds from the Lottery Commission's advertising budget, (2) revenue raised by a fee on gambling licenses, and (2) funds contributed by the Tribes to a charitable mitigation fund. The sources of funding must be fair to all parties or the bill will stall again. Much more work needs to be done with the Tribes on their approach to funding problem gambling. It seems preferable to bring the new governor into the picture and see whether she would have suggestions for a more adequate solution. Work is being done now at the federal level to schedule hearings on problem gambling issues and to communicate with the Tribes.

Testimony Against: (Finance) None.

Persons Testifying: (Commerce & Labor) (In support) Dick Van Wagenen, Governor's Policy Office; Richard Loebel; Kristina Kraus; Lee Hannon; Bridget Hester; Charles Maurer and Gary Hanson, Council on Problem Gambling; and Dolores Chiechi, Recreational Gaming Association.

(With concerns) Rick Day, Washington State Gambling Commission.

(Opposed) Jennifer McCausland, Second Chance Washington.

Persons Testifying: (Finance) Delores Chiechi and Steve Lindstrom, Recreational Gaming Association; Dick Van Wagenen, Governor's Policy Office; Gary Hanson, Washington State Council on Problem Gambling; and Julie Martin, Washington State Lottery.

Persons Signed In To Testify But Not Testifying: (Commerce & Labor) None.

Persons Signed In To Testify But Not Testifying: (Finance) None.