

Department of Legislative Services  
2015 Session

FISCAL AND POLICY NOTE

House Bill 371  
Ways and Means

(Delegate Bromwell, *et al.*)

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Gaming - Video Lottery Operation License - Baltimore-Washington  
International Thurgood Marshall Airport

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This bill, which is subject to voter referendum, authorizes a video lottery operation license to be awarded for a maximum of 2,500 video lottery terminals (VLTs) in enclosed areas at the terminal building within the security perimeter of Baltimore-Washington International Thurgood Marshall Airport (BWI). The bill provides that for VLT proceeds from the BWI facility alone, the portion remaining after other distributions are made will be distributed to the Transportation Trust Fund (TTF) rather than to the Education Trust Fund (ETF).

The bill takes effect July 1, 2015, contingent on passage of a referendum by voters in November 2016.

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Fiscal Summary

**State Effect:** None. BWI does not have space to accommodate VLTs within the security perimeter of the terminal until FY 2021.

**Local Effect:** None. It is assumed that local boards of elections' budgets contain funding for notifying voters about referendums.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** The bill excludes a license at BWI from the prohibition against awarding more than one video lottery operation license in a single county or Baltimore City. The bill increases the limit on the total number of VLTs in the State from 16,500 to 19,000, limits the number of VLTs that may be awarded for operation at BWI to 2,500, and

increases the statewide limit on the number of VLT facilities from six to seven. The bill requires that applications for a video lottery operation license at BWI be submitted by April 15, 2017, and include the required initial license fee (\$3 million) and capital investment (\$25 million) for each 500 VLTs proposed in an application. The Governor may reconstitute the Video Lottery Facility Location Commission, which must include the appointment of new members based on specified criteria, following the authorization of an additional video lottery operation license at BWI.

### **Current Law:**

#### *Video Lottery Operation Licenses*

An initial license fee of at least \$3 million for every 500 VLTs is required (except for the Allegany County facility), which accrues to ETF. The initial term of a video lottery operation license (of which up to six may be awarded through a competitive bidding process) is 15 years; a licensee may subsequently reapply for an additional 10-year term. License applicants must also invest \$25 million in construction and related costs for every 500 VLTs proposed in a bid. Licensees must begin operations in a permanent facility within 18 months after the license is awarded, which may be extended by up to 12 months by the State Lottery and Gaming Control Commission (SLGCC).

Chapter 1 of the 2012 second special session authorizes video lottery operation licensees to operate table games with SLGCC approval.

**Background: Appendix – Maryland Gaming** provides detailed background on gaming in Maryland.

#### *Transportation Trust Fund and Highway User Revenues*

TTF is a nonlapsing special fund that provides funding for transportation. It consists of tax and fee revenues, operating revenues, bond proceeds, and fund transfers. The Maryland Department of Transportation (MDOT) issues bonds backed by TTF revenues and invests the TTF fund balance to generate investment income. The Maryland Transit Administration, Motor Vehicle Administration, Maryland Port Administration, and Maryland Aviation Administration (MAA) generate operating revenues that cover a portion of their operating expenditures. The tax and fee revenues allocated to TTF include motor fuel taxes, titling taxes, vehicle registration fees, a portion of the rental car sales and corporate income taxes, and other miscellaneous motor vehicle fees.

A portion of TTF revenues is credited to the Gasoline and Motor Vehicle Revenue Account (commonly known as highway user revenue) and is distributed to local jurisdictions, the general fund, and MDOT. The funds retained by TTF support MDOT's capital program,

debt service, and operating costs. Local governments use highway user revenues to help develop and maintain local transportation projects.

### *Gaming Operations of Airports*

Passenger traffic at BWI is estimated to total 22.3 million passengers in 2014, a decrease of 0.8% from calendar 2013. Beginning in calendar 2013, a decline in passengers has been largely attributable to the impact of the federal budget shutdown and sequestration, and the weak economy. The decline in passengers continued into calendar 2014, however the decline was lower than expected. MAA assumes that the space within the security perimeter is the area past screening in the terminal building, beyond which only ticketed passengers and employees are allowed access.

The Department of Legislative Services is aware of two airports in the United States with VLTs, both in Nevada. McCarran International Airport in Las Vegas contains about 1,330 slot machines that generated \$1.20 of revenues per passenger for a total of \$25.6 million of gaming revenues in fiscal 2014. McCarran International Airport had 21.2 million passengers in fiscal 2013, which is comparable to BWI. Reno-Tahoe International Airport has over 200 machines that generated \$0.93 of revenues per enplaned passenger for a total of \$1.6 million of gaming revenues in fiscal 2014. Reno-Tahoe International Airport expects gaming revenues to decrease to \$0.67 per enplaned passenger for fiscal 2015 as a result of an increase in business travelers, who typically are not heavy users of gaming, and a decrease in leisure passengers' disposable income.

**State Fiscal Effect:** Of the 22.3 million passengers at BWI annually, 38% are traveling for business and thus have a lower propensity to gamble. Assuming gaming revenues of \$1.20 per passenger, the Department of Legislative Services (DLS) estimates that VLTs at BWI *could* generate \$26.8 million of revenue annually when fully implemented. The projected VLT revenue from a facility at BWI is lower than VLT revenues at other VLT facilities in the State because only ticketed passengers and BWI employees can be within the security perimeter of BWI, thus significantly limiting the number of people who can gamble at the facility.

Of the estimated \$26.8 million of gaming revenue, the VLT licensee would receive the percentage stated in its accepted application, plus an additional 8% if it owns or leases the VLTs for a VLT facility in Anne Arundel County. Assuming the VLT licensee's percentage is 41%, VLT revenues to the licensee increase by \$11.0 million and State special fund revenues increase by approximately \$15.8 million annually once fully implemented.

However, it is *unlikely* that these revenue estimates will be obtained within the next five years, if at all, due to space and time constraints, as well as the requirement of a large initial investment by the licensee.

MAA advises that it currently has no space for VLTs within the security perimeter of the terminal building at BWI. MAA advises that BWI's terminal concourses presently operate with space constraints on passenger hold rooms, concessions, and ingress/egress corridor widths and that it is not feasible to place VLTs within the terminal facilities without significantly expanding the terminal and concourse facilities.

AirMall Maryland, Inc. entered into a retail management lease contract with MAA in 2004 to encompass 120,000 square feet of concessions space within BWI. The lease agreement, which terminates on March 31, 2022, authorizes AirMall to lease space in BWI from MAA and then sublease these spaces to food service, retail, and certain service concession operators. Once the lease ends, VLTs could potentially encompass a portion of that space after March 31, 2022.

An applicant for a VLT license at BWI must be submitted by April 15, 2017. Current law requires a VLT licensee to begin operating VLTs within 18 months after the license is awarded. Two extensions of 6 months each may be granted, so a VLT licensee must be operating within 30 months of being awarded a license or the license automatically reverts to the State. Assuming that VLTs would not be able to be operational until after March 31, 2022, a VLT licensee would not be able to make this time constraint of 30 months, so it is unlikely that any applicants would apply for a VLT license at BWI by the April 15, 2017 deadline.

Current law requires an application for a VLT license to provide at least \$25 million in direct investment by the applicant in construction and related costs for each 500 video lottery terminals. Assuming an applicant plans to operate 1,000 VLTs at BWI, the applicant would have to make a \$50 million investment within BWI. Additionally, an applicant has to pay an application fee of \$3 million per 500 VLTs. DLS projects a VLT licensee receives \$11 million in VLT revenues annually once fully implemented, so it would take over five years for a licensee to recoup its initial investment of \$56 million from gaming revenues. DLS advises that this start-up investment would be a significant barrier to applicants considering a VLT license at BWI. However, if an applicant applies for and is granted a VLT license at BWI, general fund expenditures increase for SLGCA to oversee and monitor the BWI facility since the VLT revenues from the BWI facility will be insufficient to pay for increased SLGCA expenditures.

## **Additional Information**

**Prior Introductions:** A similar bill, HB 817 of 2014, received an unfavorable report from the House Ways and Means Committee. A similar bill, HB 446 of 2013, received a hearing in the House Ways and Means Committee, but no further action was taken. In addition, similar bills were introduced in the 2009 through 2012 sessions.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, Maryland State Lottery and Gaming Control Agency, Maryland Department of Transportation, Clark County (Nevada) Department of Aviation, Reno-Tahoe Airport Authority, Department of Legislative Services

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## Appendix – Maryland Gaming

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The State of Maryland has authorized and awarded six video lottery operation licenses in Baltimore City and Allegany, Anne Arundel, Cecil, Prince George's, and Worcester counties with a maximum number of 16,500 video lottery terminals (VLTs) allotted in the State. Licensees are also authorized to have table games with approval of the State Lottery and Gaming Control Commission. To date, all facilities are operational except in Prince George's County, which is expected to open in July 2016.

### *VLT Law*

VLT gambling in Maryland was authorized by Chapter 4 and Chapter 5 of the 2007 special session. Chapter 5 was a constitutional amendment approved by the voters at the November 2008 general election that also authorized the expansion of gambling, subject to specified restrictions. After November 15, 2008, the General Assembly may only authorize additional forms or expansion of gaming if approved through a referendum by a majority of voters in a general election. Chapter 4, which was contingent on ratification of Chapter 5, established the operational and regulatory framework for the VLT program. The Video Lottery Facility Location Commission (Location Commission) was established in the law to solicit and evaluate proposals for, and award, video lottery operation licenses. The Location Commission terminated January 1, 2015, under the law, although the Governor may reconstitute it if an operation license is expiring or is revoked or surrendered.

Chapter 4 specified geographic locations and VLT allocations for five authorized video lottery facilities in Allegany (1,500 VLTs), Anne Arundel (4,750 VLTs), Cecil (2,500 VLTs), and Worcester (2,500 VLTs) counties and Baltimore City (3,750 VLTs).

During the 2012 second special session, the General Assembly passed Chapter 1, which was approved by voter referendum at the November 2012 general election. Among its provisions, Chapter 1 authorized a sixth video lottery operation license to be awarded for a video lottery facility to operate a maximum of 3,000 VLTs at a location in Prince George's County within a four-mile radius of the intersection of Bock Road and St. Barnabas Road. VLT operations may not begin at the Prince George's County facility until the earlier of July 1, 2016, or 30 months after the VLT facility in Baltimore City is open to the public.

Chapter 1 also authorized video lottery operation licensees to operate table games, with the approval of the State Lottery and Gaming Control Commission (SLGCC) (previously the State Lottery Commission). VLT facilities were also authorized to remain open to the public 24 hours per day, seven days per week.

*VLT Implementation*

Five casinos are currently operating in Maryland, with the sixth casino, MGM National Harbor, LLC, expected to open in fiscal 2017. The opening date and the number of VLTs and table games for each facility are shown in **Exhibit 1**. The number of VLTs and table games reflects January 2015 SLGCC approval of reductions in VLTs and additions of table games at Hollywood Casino Perryville, Maryland Live!, and Horseshoe Casino.

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**Exhibit 1**  
**Number of VLTs and Table Games in Maryland**

<u>Casino</u>	<u>County</u>	<u>Opening Date</u>	<u>VLTs</u>	<u>Table Games</u>
Hollywood Casino	Cecil	September 2010	850	22
Ocean Downs	Worcester	January 2011	800	-
Maryland Live!	Anne Arundel	June 2012	3,922	202
Rocky Gap Casino	Allegany	May 2013	577	17
Horseshoe Casino	Baltimore City	August 2014	2,200	177
MGM National Harbor	Prince George's	July 2016*	3,600*	140*

\*Projected

Source: Department of Legislative Services; State Lottery and Gaming Control Agency

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*Distribution of VLT Proceeds*

Under Chapter 4 of the 2007 special session and Chapter 1 of the 2012 second special session, gross VLT proceeds are distributed as follows from the proceeds of VLTs at each facility *until* a license is issued for the Prince George's County facility, with some exceptions as discussed below:

- Business Investment – 1.5% to a small, minority-, and woman-owned business investment account;
- Lottery (Administration) – 2% to the State lottery for administrative costs (decreases to 1% after March 31, 2015), with other costs provided for in the State budget;

- Local Government Impact Grants – 5.5% to local governments in which a video lottery facility is operating, 18% of which goes for 20 years (starting in fiscal 2012 and ending in fiscal 2032) to Baltimore City through the Pimlico Community Development Authority, to Prince George’s County for the community surrounding Rosecroft (\$1 million annually), and to communities within three miles of the Laurel Race Course (\$500,000 annually for fiscal 2015 through 2019). However, the 18% dedication does not apply to Allegany, Cecil, and Worcester county facilities since the Baltimore City license has been issued (described further below);
- Purse Dedication Account (PDA) – 7% to PDA to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually;
- Racetrack Facility Renewal Account (RFRA) – 1.0% except for the Allegany County facility (the percentage decreased from 1.75% to 1.0% with the issuance of the Baltimore City license), for a 16-year period beginning October 1, 2012, to the RFRA, not to exceed \$20 million annually;
- Licensee (Operator) – no more than 33% to video lottery operation licensees, except the Allegany County (50% for the first 10 years) and Worcester County (43%, effective July 1, 2013) licensees and as described below; and
- Education Trust Fund (ETF) – remainder to the ETF (41%-45%).

Upon the issuance of a Prince George’s County video lottery operation license, the licensee in Baltimore City will receive an additional 7% of VLT revenues and the Anne Arundel County licensee will receive an additional 8% of VLT revenues at the facility for (1) required marketing, advertising, and promotional costs and (2) capital improvements at the VLT facility. SLGCC may further increase this distribution to the Baltimore City and Anne Arundel County licensees by up to three and two percentage points, respectively; however, if the Anne Arundel County licensee receives an additional adjustment, the Baltimore City licensee must receive at least the same additional percentage point increase. The commission may also provide an adjustment of up to 5% of VLT revenues to the Cecil County licensee from proceeds at that facility for marketing, advertising, and promotional costs or for capital improvements. Any adjustment(s) must be preceded by a specified report from SLGCC to the Governor and the General Assembly regarding the implications of the adjustment, must be determined by January 1, 2019, and may not take effect until the Prince George’s County video lottery operation license is issued and no earlier than July 1, 2019.

Also upon the issuance of the Prince George’s County license, the bill reduces from 7% to 6% of VLT revenues the distribution to PDA.

Chapter 1 also specified that, once a Baltimore City license is issued, of the revenues dedicated to local impact grants, 100% of the local impact grants from the proceeds of the video lottery facilities in Allegany, Cecil, and Worcester counties must be distributed to



those jurisdictions. The bill also specified that, once a Prince George's County license is issued, of the revenues dedicated to local impact grants, \$200,000 is distributed annually to Allegany and Worcester counties, \$130,000 is distributed to Cecil County, and \$70,000 is distributed to the Town of Perryville. Beginning July 1, 2013, the licensee in Worcester County receives 43% of revenues generated at the facility, if the facility has less than 1,000 VLTs and the equivalent of 2.5% of the facility's proceeds are spent each year on capital improvements at the facility. Under previous law, the licensee share of 50% for the Allegany County VLT facility is reduced to 33% of proceeds after 10 years of operations. Chapter 1 specified that the operator share for the Allegany County facility will be 50% after 1 year of operations and meeting a 0.5% annual capital investment requirement; after 10 years of operations, the operator share will be 43% if a 2.5% capital investment requirement is met.

### *Ownership and Leasing of VLTs*

Under Chapter 1, the Baltimore City and Prince George's County facility operators will own or lease VLTs at their respective facilities and SLGCC retains responsibility for ownership or leasing of VLTs and associated equipment at the VLT facilities in Allegany and Worcester counties. However, the facilities in Allegany and Worcester counties may apply to SLGCC for permission to assume ownership or the right to lease each VLT used by the facility. For the existing facilities in Anne Arundel and Cecil counties, the licensees will own or lease the machines beginning April 1, 2015, after the State's master contract with VLT manufacturers expires on March 31, 2015. The savings to the State from requiring VLT facilities to own or lease VLTs must be appropriated to ETF.

Upon assuming ownership of VLTs, the Anne Arundel County licensee receives an additional 8% of VLT revenues at the facility and the licensees in Baltimore City, Cecil County, and Prince George's County receive an additional 6% of VLT revenues from their facilities. Beginning April 1, 2015, Chapter 1 also reduces from 2% to 1% of VLT revenues the distribution to the State Lottery and Gaming Control Agency for administrative costs associated with the VLT program (except for Allegany County).

### *Table Games*

Chapter 1 of the 2012 second special session required SLGCC to allow the holder of a video lottery operation license to offer specified table games and required SLGCC to regulate table game operations. Prior to the issuance of a Prince George's County video lottery operation license, 80% of table game revenues are distributed to licensees and 20% of table game revenues are distributed to ETF. Upon issuance of a Prince George's County license, licensees continue to receive 80% of table game revenues, 15% is distributed to ETF, and 5% is distributed to local jurisdictions where a VLT facility is located. Proceeds

distributed to Baltimore City must be used equally to fund school construction projects and for the maintenance, operation, and construction of recreational facilities.

The State is prohibited from charging a table game *license* fee. However, SLGCC *may* establish an annual fee for each table game, capped at \$500 per table, to benefit the Problem Gambling Fund. SLGCC has adopted regulations that set the fee at \$500.

Authorized table games are defined as:

- roulette, baccarat, blackjack, craps, big six wheel, minibaccarat, poker, pai gow poker, and sic bo – or any variation and composites of these games; and
- gaming tournaments in which players compete against one another in one or more of the games previously described.

SLGCC may determine the suitability of any composites or variations of authorized table games, as well as additional games, after an appropriate test or experimental period as determined by the commission. SLGCC may, through regulations, define and limit the method of operation, type, and number of table games. SLGCC regulations must also establish procedures for accounting for money exchanged at table games and for the removal of VLTs (including the number that may be removed) to accommodate table games.

#### *VLT and Table Game Revenues*

The estimated revenues from VLTs and table games in fiscal 2016 through 2020 are shown in **Exhibit 2**. In total, \$1.12 billion in gross gaming revenues is projected in fiscal 2016, including \$394 million to be distributed to ETF.

**Exhibit 2**  
**Distribution of Estimated VLT and Table Game Revenues in Maryland**  
**Current Law**  
**(\$ in Millions)**

	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
<b>VLTs</b>					
Education Trust Fund	\$315.9	\$432.8	\$456.7	\$462.9	\$469.8
Lottery Operations	7.7	11.3	11.9	12.1	12.3
Purse Dedication Account	49.1	64.3	67.8	68.7	69.7
Racetrack Renewal Account	6.9	10.5	11.1	11.3	11.4
Local Impact Grants	38.9	59.1	62.3	63.1	64.1
Business Investment	10.6	16.1	17.0	17.2	17.5
Licensees	297.8	500.7	525.8	532.8	540.8
<b>Total VLTs</b>	<b>\$726.8</b>	<b>\$1,095.0</b>	<b>\$1,152.6</b>	<b>\$1,168.0</b>	<b>\$1,185.5</b>
<b>Table Games</b>					
Anne Arundel	\$239.6	\$199.4	\$195.4	\$196.7	\$199.6
Baltimore City	132.1	121.5	120.8	121.9	123.7
Cecil	12.1	11.3	11.2	11.4	11.5
Worcester	-	-	-	-	-
Allegany	6.7	6.6	6.6	6.6	6.7
Prince George's	-	183.1	209.7	213.9	217.1
<b>Total Table Games</b>	<b>\$390.4</b>	<b>\$521.9</b>	<b>\$543.7</b>	<b>\$550.5</b>	<b>\$558.8</b>
<b>Table Games</b>					
Education Trust Fund	\$78.1	\$78.3	\$81.6	\$82.6	\$83.8
Local Impact Grants	-	26.1	27.2	27.5	27.9
Licensee	312.3	417.5	435.0	440.4	447.0
<b>Total Table Games</b>	<b>\$390.4</b>	<b>\$521.9</b>	<b>\$543.7</b>	<b>\$550.5</b>	<b>\$558.8</b>
<b>Total VLT and Table Games</b>	<b>\$1,117.2</b>	<b>\$1,616.9</b>	<b>\$1,696.3</b>	<b>\$1,718.5</b>	<b>\$1,744.3</b>
<b>Total Education Trust Fund</b>	<b>\$394.0</b>	<b>\$511.1</b>	<b>\$538.2</b>	<b>\$545.5</b>	<b>\$553.6</b>

Note: State general fund savings from the transfer of ownership of the majority of VLTs after March 31, 2015, is estimated at \$42.9 million in fiscal 2015.

Source: Department of Legislative Services; Board of Revenue Estimates; Department of Budget and Management