

Department of Planning and Budget

2019 Fiscal Impact Statement

1. Bill Number: SB1126

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Lucas**3. Committee:** General Laws and Technology**4. Title:** Lottery Board; regulation of casino gaming; penalties.

5. Summary: Authorizes casino gaming in the Commonwealth to be regulated by the Virginia Lottery Board (the Board). The bill specifies the licensing requirements for casino gaming and imposes criminal and civil penalties for violations of the casino gaming law. Casino gaming shall be limited to any city in which at least 40 percent of the land area is exempt from local real property taxation pursuant to federal law or specified sections of the Constitution of Virginia or any city that had a rate of unemployment at least four percentage points higher than the statewide average, a poverty rate of at least 22 percent, and a population decrease in the locality of at least 20 percent from the previous year, all computed as of November 2017, and located adjacent to a state that has adopted a Border Region Retail Tourism Development District Act. The bill imposes a tax of 10 percent on the adjusted gross receipts of licensees and provides for how the tax proceeds are disbursed. In addition, a referendum must be passed in the city on the question of allowing casino gaming in the city. The bill requires the Board to establish and implement a voluntary exclusion program allowing individuals to voluntarily list themselves as being barred from entering a casino gaming establishment or other facility under the jurisdiction of the Board. The bill also establishes the Problem Gambling Treatment and Support Fund administered by the Commissioner of Behavioral Health and Developmental Services to provide counseling and other support services for compulsive and problem gamblers, develop problem gambling treatment and prevention programs, and provide grants to support organizations that provide assistance to compulsive gamblers.

6. Budget Amendment Necessary: No.**7. Fiscal Impact Estimates:** Preliminary – see Item 8.

8. Fiscal Implications: The proposed legislation is expected to have a state fiscal impact for the Virginia Lottery, Department of Behavioral Health and Developmental Services (DBHDS), and Department of Corrections (DOC). The estimated fiscal impact for the impacted states agencies are explained below.

The Virginia Lottery is expected to incur additional costs for implementing the provisions of this bill; however, the costs cannot be determined at this time because the administrative costs will be dependent upon the number of casino gaming applications received as well as the approval of a local referendum. The proposed legislation prohibits the Virginia Lottery from granting any initial license to operate a casino gaming operation until a referendum approving the question is held in each city in which a casino gaming operation is to be located. The proposed legislation authorizes the Virginia Lottery to access a nonrefundable application fee of \$50,000 for filing a casino gaming application, a \$5,000 application fee for a supplier permit, and a fee, to be determined by the Lottery Board, for anyone wanting to obtain a service permit. The fees are expected to defray the costs incurred by the Lottery Board.

The proposed legislation requires the DBHDS to administer the Problem Gambling Treatment and Support Fund (Fund). The Fund will be used solely for providing counseling and other support services for compulsive and problem gamblers, developing and implementing problem gambling treatment and prevention programs, and providing grants to supporting organizations that provide assistance to compulsive gamblers. Currently, DBHDS does not provide any counseling or rehabilitative services for gambling addiction. According to DBHDS, based on the population density of Virginia, this legislation may need up to 25 full-time equivalent positions through the Community Services Boards (CSB) and the DBHDS central office at a total cost of \$1.9 million per year in staffing. Additionally, using the costs of administering the Mental Health First Aid program as a blueprint, DBHDS projects the need for an additional \$600,000 per year for the costs of regional training programs and \$500,000 in additional support to the CSBs for locally administered programs. The revenue deposited in the Fund is expected to be used to defray DBHDS' administrative costs.

The table below provides a detailed break out of DBHDS estimated fiscal impact.

Expense	Cost	Number of FTEs	Total
CSB Staff	\$75,000 per position	24.00	\$1,875,000
Central Office Staff	\$75,000 per position	1.00	\$75,000
Treatment/Training Programs	\$1,100,000	-	\$1,100,000
		25.00	\$3,050,000

The proposed legislation imposes a Class 1 misdemeanor, Class 4 and Class 6 felony for anyone convicted of violating the provisions of the proposed legislation. For a Class 1 misdemeanor, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both is required. For a Class 4 felony, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$100,000. For a Class 6 felony, a judge has the option of sentencing him to up to one

year in jail, or 1 to 5 years in prison. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in fiscal year 2017.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to § 30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 2 of the 2018 Acts of Assembly, Special Session I requires that a minimum impact of \$50,000 be assigned to the bill.

Revenue estimates and associated funds available to the Problem Gambling Treatment and Support Fund, the Virginia Public School Construction Grants Program and Fund, and the State Local Casino Gaming Proceeds Fund will vary depending on the number of establishments approved by referendum and licensed by the Board, as well as the type of games offered and scope of the facility. There is also no anticipation of the timing of such referendum passage or construction/retrofitting of a casino facility. As the bill is currently drafted, the Virginia Lottery estimates that the regulatory and oversight functions, including vetting and licensure of operators and suppliers, on-premise monitoring, audit of records, and management of daily tax transfers and associated monthly, quarterly, and annual reporting, would be sufficient with the proposed allocation of gross receipts. On average, each of the six Maryland casino locations generate \$24 million in monthly gross receipts (source: Maryland Gaming Commission report, December 2018, Calendar Year 2018).

This bill would place the oversight responsibilities for casino gaming, to be conducted at specific establishments, within the Virginia Lottery. A 10% tax on adjusted gross receipts from each licensed casino operator would be collected by the Lottery, daily, and distributed as directed: 0.05% to Problem Gambling Treatment and Support Fund; 2.5% to Virginia Public School Construction Grants Program and Fund; 2.45% allocation to cover the costs of casino gaming regulation and oversight; and 5% to State Local Casino Gaming Proceeds Fund. The bill does not specify an entity responsible for disbursing funds from the Virginia Public School Construction Grants Program and Fund or the State Local Casino Proceeds Fund to the end recipients.

It is anticipated that this bill will have a local revenue impact; however, the revenue impact cannot be determined.

9. Specific Agency or Political Subdivisions Affected: Virginia Lottery, Department of Behavioral and Developmental Services, Department of Corrections, Virginia State Police, Department of Accounts, and Department of the Treasury, and localities.

10. Technical Amendment Necessary: No.

11. Other Comments: The proposed legislation is a companion to House Bill 1890 (James) and similar to Senate Bill 1503 (Carrico), Senate Bill 1706 (Lewis), and House Bill 2536 (O'Quinn).