

5:5-186

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2011 **CHAPTER:** 228

NJSA: 5:5-186 (Directs New Jersey Racing Commission to implement pilot program for State-owned racetrack purchaser or lessee to establish electronic terminals for wagering on horse races at qualified taverns, restaurants, and similar establishments under one issued license)

BILL NO: A4285 (Substituted for S3115)

SPONSOR(S) Burzichelli and Others

DATE INTRODUCED: November 21, 2011

COMMITTEE: **ASSEMBLY:** Regulatory Oversight and Gaming

SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** January 9, 2012

SENATE: January 9, 2012

DATE OF APPROVAL: January 17, 2012

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Assembly Committee Substitute enacted)

A4285

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

S3115

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

(continued)

CONDITIONAL VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"On the menu: Bets on horses," Home News Tribune, 1-18-12

"Christie signs off-track betting bill into law," The Daily Journal, 1-18-12

"Christie approves 3-year pilot program for horse betting in bars and restaurants,"
NewJerseyNewsroom.com, 1-18-12

LAW/RWH

P.L.2011, CHAPTER 228, *approved January 17, 2012*

Assembly Committee Substitute for

Assembly, No. 4285

1 AN ACT concerning the placement of horse racing wagers at certain
2 locations and supplementing the "Off-Track and Account
3 Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Notwithstanding the provisions of the "Off-Track and
9 Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), or any
10 other law, rule, or regulation to the contrary, the New Jersey Racing
11 Commission shall implement a pilot program to license a lessee or
12 purchaser of a State-owned racetrack to provide patrons with the
13 ability to place wagers on horse races through electronic wagering
14 terminals to be located at a limited number of eligible taverns,
15 restaurants, and similar venues where food, alcoholic beverages, or
16 both, are served to the public for on-premises consumption, subject
17 to regulation and control by the commission and as further provided
18 by this act, P.L. , c. (C.) (pending before the Legislature as this
19 bill).

20 a. In lieu of a maximum of one off-track wagering facility
21 license that remains to be utilized or implemented by the New
22 Jersey Sports and Exposition Authority or any lessee of the
23 authority under the "Off-Track and Account Wagering Act,"
24 P.L.2001, c.199 (C.5:5-127 et seq.), as amended and supplemented,
25 the commission shall issue one license to be awarded to an entity
26 that has entered into an agreement with the authority for the sale or
27 lease of a State-owned racetrack for the establishment at not more
28 than 12 qualified taverns, restaurants, and similar venues, of not
29 more than 20 electronic wagering terminals in total in this State to
30 enable patrons to place wagers on in-State and out-of-State horse
31 races, which wagers shall be placed by eligible patrons who are
32 physically present at those locations. Only one license shall be
33 issued under this pilot program, except that the licensed entity may
34 enter into an agreement with another licensed entity that has also
35 entered into an agreement with the authority for the sale or lease of
36 a State-owned racetrack, to jointly undertake and share the proceeds
37 from the licensed activities under the pilot program, which
38 agreement shall be subject to the approval of the authority. The
39 license issued under this pilot program shall be temporary, subject
40 to review and renewal on an annual basis, and shall expire within
41 three years of issuance of the initial license. When issuing the
42 license, the commission shall require the licensed entity to sign a

1 waiver showing that the licensee understands the terms and
2 conditions of the license.

3 b. The pilot program authorized pursuant to this act, P.L. ,
4 c. (C) (pending before the Legislature as this bill), shall be
5 implemented only in the northern part of the State, in Bergen,
6 Hudson, Essex, Passaic, Union, Morris, Somerset, Hunterdon,
7 Warren, Sussex, and northern Middlesex and Ocean counties. The
8 commission shall develop an application form and process, solicit
9 completed applications to be submitted jointly by a lessee or
10 purchaser of a State-owned racetrack and that entity's selected
11 taverns, restaurants, and similar venues located within the
12 aforementioned geographic region, and evaluate each applicant's
13 eligibility using specified criteria which shall include, but not be
14 limited to:

15 (1) proof of financial resources sufficient to enable the applicant
16 to establish and conduct the electronic wagering terminals with
17 appropriately staffed and managed operations;

18 (2) evidence of good character, honesty, competency and
19 integrity;

20 (3) the absence of a conviction for a crime involving fraud,
21 dishonesty or moral turpitude; and

22 (4) any additional standards and criteria the commission may
23 establish by rule or regulation.

24 In evaluating an application for a license, the commission shall
25 ensure that each selected applicant has met all required eligibility
26 criteria. In awarding the license, the commission shall also consider
27 the proximity of the applicant's venue to planned or existing
28 racetracks, off-track wagering facilities, and simulcasting facilities
29 in this State. If, in the opinion of the commission, the issuance of a
30 license for the establishment of electronic wagering terminals at the
31 applicant's venue would be inimical to the interests of a planned or
32 established racetrack, off-track wagering facility, or simulcasting
33 facility, the commission shall deny the license even when the
34 applicant has otherwise met all eligibility criteria.

35 A license issued under this section shall at all times remain the
36 property of the permit holder and shall be subject to all conditions
37 of a participation agreement pursuant to section 4 of P.L.2001,
38 c.199 (C.5:5-130), as amended and supplemented. The permit
39 holder shall be responsible for entering into agreements with
40 qualified taverns, restaurants and similar venues. The permit holder
41 and qualified tavern, restaurant or similar venue shall jointly submit
42 to the commission any applications and information as required by
43 the commission in determining eligibility for a license. The permit
44 holder may terminate agreements for individual licenses with notice
45 to the commission.

- 1 c. To effectuate the provisions of this act, P.L. , c. (C)
2 (pending before the Legislature as this bill), the commission shall
3 promulgate rules and regulations necessary to:
- 4 (1) determine the number of locations at which electronic
5 wagering terminals shall be established under the program,
6 provided that the license shall be limited to a maximum of 12
7 locations, which maximum number of locations shall be reduced by
8 one per each off-track wagering facility in the authority's share that
9 is newly-established during the implementation of the pilot
10 program, and provided further that not more than 20 electronic
11 wagering terminals shall be established in total in this State;
- 12 (2) evaluate the types of electronic wagering terminals and
13 equipment that may be used in wagering, and the number of such
14 machines to be established at each licensed venue, subject to
15 approval by the commission;
- 16 (3) develop geographic proximity and impact criteria to
17 determine whether a proposed location would be inimical to the
18 interest of planned or existing racetracks, off-track wagering
19 facilities, and simulcasting facilities in this State, and which criteria
20 shall be used to deny a license as provided under subsection b. of
21 this section;
- 22 (4) authorize the licensee to enter into contracts with vendors,
23 operators, and other entities, as the case may be, for the
24 establishment and operation of the approved electronic wagering
25 terminals;
- 26 (5) ensure that amounts wagered through the electronic
27 wagering terminals are properly distributed to winning bettors, the
28 licensed venue, and others in a manner similar to that provided
29 under section 44 of P.L.1940, c.17 (C.5:5-64), section 21 of
30 P.L.2001, c.199 (C.5:5-147) for sums wagered on in-State races,
31 and sections 22 through 25 of P.L.2001, c.199 (C.5:5-148 through
32 C.5:5-151) for sums wagered on out-of-State races, except that a
33 local impact fee of 1% of the licensee's share of revenues shall be
34 paid to the host municipality for general municipal purposes;
- 35 (6) provide that an amount of the revenues from electronic
36 wagering terminals shall be distributed for the funding of horse
37 racing purses in accordance with the statutes cited under paragraph
38 (5) of this subsection;
- 39 (7) ensure that persons under the age of 18 years shall not be
40 permitted within the space in the venue where electronic wagering
41 terminals are placed, and that necessary safeguards are in place to
42 prevent minors from wagering; and
- 43 (8) regulate any other aspects of the electronic wagering
44 operation the commission deems appropriate.
- 45 d. Notwithstanding any other provision of this act or the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
47 seq.) to the contrary, the commission shall, within 90 days of the

1 effective date of this act and after notice provided in accordance
2 with this subsection, authorize the temporary adoption of any rule
3 concerning the conduct of wagering under this act, P.L. , c. (C.)
4 (pending before the Legislature as this bill). Any temporary
5 rulemaking authorized by this subsection shall be subject to such
6 terms and conditions as the commission may deem appropriate.
7 Notice of any temporary rulemaking action taken by the
8 commission pursuant to this subsection shall be published in the
9 New Jersey Register, and provided to the newspapers designated by
10 the commission pursuant to subsection d. of section 3 of P.L.1975,
11 c.231 (C.10:4-8), at least seven days prior to the implementation of
12 the temporary rules. Nothing herein shall be deemed to require the
13 publication of the text of any temporary rule adopted by the
14 commission or notice of any modification of any temporary
15 rulemaking initiated in accordance with this subsection. The text of
16 any temporary rule adopted by the commission shall be available in
17 each venue participating in the temporary rulemaking and shall be
18 available upon request from the commission. The temporary rules
19 promulgated pursuant to this subsection shall not be effective for
20 more than 180 days unless promulgated in accordance with normal
21 rule-making procedures.

22 e. Within three years of the issuance of the license under the
23 pilot program, the commission shall issue a report to the Governor,
24 and to the Legislature as provided under section 2 of P.L.1991,
25 c.164 (C.52:14-19.1), containing an evaluation of the pilot program.
26 The report shall also provide the commission's opinion as to
27 whether the pilot program should be continued and, if so,
28 recommendations for further improvement and implementation.
29 The pilot program shall end upon the expiration of the license
30 issued under the program unless the Legislature enacts a law to
31 continue the program.

32
33 2. This act shall take effect immediately, and shall be
34 retroactive to December 31, 2011.

35
36
37 _____
38
39 Directs New Jersey Racing Commission to implement pilot
40 program for State-owned racetrack purchaser or lessee to establish
41 electronic terminals for wagering on horse races at qualified
42 taverns, restaurants, and similar establishments under one issued
43 license.

ASSEMBLY, No. 4285

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED NOVEMBER 21, 2011

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Salem, Cumberland and Gloucester)
Assemblyman RALPH R. CAPUTO
District 28 (Essex)
Assemblywoman CONNIE WAGNER
District 38 (Bergen)

Co-Sponsored by:

Assemblyman O'Scanlon, Assemblywoman Handlin, Assemblymen
Diegnan and Dancer

SYNOPSIS

Directs New Jersey Racing Commission to implement pilot program for taverns, restaurants, and similar establishments to provide electronic terminals for wagering on horse races under issued license.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/6/2012)

1 AN ACT concerning the placement of horse racing wagers at certain
2 locations and supplementing the "Off-Track and Account
3 Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Notwithstanding the provisions of the "Off-Track and
9 Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), or any
10 other law, rule, or regulation to the contrary, the New Jersey Racing
11 Commission shall implement a pilot program to license a limited
12 number of eligible taverns, restaurants, and similar venues where
13 food, alcoholic beverages, or both, are served to the public for on-
14 premises consumption, to provide patrons with the ability to place
15 wagers on horse races through electronic wagering terminals,
16 subject to regulation and control by the commission and as further
17 provided by this act, P.L. , c. (C.) (pending before the
18 Legislature as this bill).

19 a. In lieu of a maximum of four off-track wagering facility
20 licenses that remain to be utilized or implemented by the New
21 Jersey Sports and Exposition Authority or any lessee of the
22 authority under the "Off-Track and Account Wagering Act,"
23 P.L.2001, c.199 (C.5:5-127 et seq.), as amended and supplemented,
24 the commission shall issue a limited number of licenses to qualified
25 taverns, restaurants, and similar venues, for the establishment at
26 such venues of one or more electronic wagering terminals to enable
27 patrons to place wagers on in-State and out-of-State horse races,
28 which wagers shall be placed by eligible patrons who are physically
29 present at those locations. Each license issued under this pilot
30 program shall be temporary, subject to review and renewal on an
31 annual basis, and shall expire within three years of issuance of each
32 initial license.

33 b. The pilot program authorized pursuant to this act shall be
34 implemented only in the northern part of the State, in Bergen,
35 Hudson, Essex, Passaic, Union, Morris, Somerset, Hunterdon,
36 Warren, Sussex, and northern Middlesex and Ocean counties. The
37 commission shall develop an application form and process, solicit
38 completed applications from taverns, restaurants, and similar
39 venues located within the aforementioned geographic region, and
40 evaluate each applicant's eligibility using specified criteria which
41 shall include, but not be limited to:

42 (1) proof of financial resources sufficient to enable the applicant
43 to establish and conduct the electronic wagering terminals with
44 appropriately staffed and managed operations;

45 (2) evidence of good character, honesty, competency and
46 integrity;

47 (3) the absence of a conviction for a crime involving fraud,
48 dishonesty or moral turpitude; and

1 (4) any additional standards and criteria the commission may
2 establish by rule or regulation.

3 In evaluating an application for a license, the commission shall
4 ensure that each selected applicant has met all required eligibility
5 criteria. In awarding the license, the commission shall also consider
6 the proximity of the applicant's venue to planned or existing
7 racetracks, off-track wagering facilities, and simulcasting facilities
8 in this State. If, in the opinion of the commission, the issuance of a
9 license for the establishment of electronic wagering terminals at the
10 applicant's venue would be inimical to the interests of a planned or
11 established racetrack, off-track wagering facility, or simulcasting
12 facility, the commission shall deny the license even when the
13 applicant has otherwise met all eligibility criteria.

14 c. To effectuate the provisions of this act, the commission shall
15 promulgate rules and regulations necessary to:

16 (1) develop a rational basis for determining the number of
17 licenses to be awarded under the program, except that not more than
18 60 licenses shall be awarded to qualified venues;

19 (2) evaluate the types of electronic wagering terminals and
20 equipment that may be used in wagering, and the number of such
21 machines to be established at each licensed venue, subject to
22 approval by the commission;

23 (3) develop geographic proximity and impact criteria to
24 determine whether a proposed location would be inimical to the
25 interest of planned or existing racetracks, off-track wagering
26 facilities, and simulcasting facilities in this State, and which criteria
27 shall be used to deny a license as provided under subsection b. of
28 this section;

29 (4) authorize the licensee to enter into contracts with vendors,
30 operators, and other entities, as the case may be, for the
31 establishment and operation of the approved electronic wagering
32 terminals;

33 (5) ensure that amounts wagered through the electronic wagering
34 terminals are properly distributed to winning bettors, the licensed
35 venue, and others in a manner similar to that provided under section
36 44 of P.L.1940, c.17 (C.5:5-64), section 21 of P.L.2001, c.199
37 (C.5:5-147) for sums wagered on in-State races, and sections 22
38 through 25 of P.L.2001, c.199 (C.5:5-148 through C.5:5-151) for
39 sums wagered on out-of-State races, except that a local impact fee
40 of 1% of each machine's gross revenues shall be paid to the host
41 municipality for general municipal purposes;

42 (6) provide that an amount, to be determined by the commission,
43 of the revenues from electronic wagering terminals shall be
44 distributed for the funding of horse racing purses;

45 (7) ensure that persons under the age of 18 years shall not be
46 permitted within the space in the venue where electronic wagering
47 terminals are placed, and that necessary safeguards are in place to
48 prevent minors from wagering; and

1 (8) regulate any other aspects of the electronic wagering
2 operation the commission deems appropriate.

3 d. Within three years of the issuance of the first license under
4 the pilot program, the commission shall issue a report to the
5 Governor, and to the Legislature as provided under section 2 of
6 P.L.1991, c.164 (C.52:14-19.1), containing an evaluation of the
7 pilot program. The report shall also provide the commission's
8 opinion as to whether the pilot program should be continued and, if
9 so, recommendations for further improvement and implementation.
10 The pilot program shall end upon the expiration of the last license
11 issued under the program unless the Legislature enacts a law to
12 continue the program.

13
14 2. This act shall take effect immediately.

15
16
17 STATEMENT

18
19 This bill directs the New Jersey Racing Commission to
20 implement a pilot program to license a limited number of eligible
21 taverns, restaurants, and similar venues where food, alcoholic
22 beverages, or both, are served to the public for on-premises
23 consumption, in the northern part of the State to provide patrons
24 with the ability to place wagers on horse races through electronic
25 wagering terminals, subject to the commission's regulation and
26 control.

27 Under the bill, in lieu of a maximum of four off-track wagering
28 facility licenses that remain to be utilized or implemented by the
29 New Jersey Sports and Exposition Authority or any lessee of the
30 authority under the "Off-Track and Account Wagering Act,"
31 P.L.2001, c.199 (C.5:5-127 et seq.), as amended and supplemented,
32 the commission would issue licenses to qualified taverns,
33 restaurants, and similar venues. The qualified licensees would
34 establish one or more electronic wagering terminals to enable
35 patrons to place wagers at those locations on in-State and out-of-
36 State horse races. Each license issued under the pilot program
37 would be temporary, subject to review and renewal on an annual
38 basis, and would expire within three years of issuance of each initial
39 license.

40 The bill limits the pilot program to eligible venues located in
41 Bergen, Hudson, Essex, Passaic, Union, Morris, Somerset,
42 Hunterdon, Warren, Sussex, and northern Middlesex and Ocean
43 counties. The commission would develop an application form and
44 process, solicit completed applications from taverns, restaurants,
45 and similar venues located within the aforementioned geographic
46 region, and evaluate each applicant's eligibility using specified
47 criteria. The eligibility criteria is standard for wagering operations,
48 which include but are not limited to proofs of financial resources,

1 evidence integrity, the absence of a criminal conviction, and
2 additional standards and criteria the commission may establish by
3 rule or regulation. The commission would deny a license to any
4 venue where the placement of electronic wagering terminals would
5 be inimical to existing racetracks, off-track wagering facilities, and
6 simulcasting facilities. Furthermore, the commission would
7 promulgate rules and regulations to develop criteria for determining
8 the number of licenses to be issued, which could not be more than
9 60 licenses; evaluate the type and number of electronic wagering
10 terminals that may be approved and used at each licensed venue;
11 develop geographic and impact criteria for denying a license when
12 inimical to existing racing venues; authorize contracts between the
13 licensee and machine vendors and operators; ensure that amounts
14 wagered are distributed according to law in a manner similar to
15 distributions at off-track wagering facilities, except that a local
16 impact fee of 1% of each machine's gross revenues would be paid
17 to the host municipality for general municipal purposes; provide for
18 the funding of horse racing purses; prevent underage gambling; and
19 regulate any other aspects of the wagering operation the
20 commission deems necessary.

21 Finally, the bill directs the commission to issue a report to the
22 Governor and to the Legislature within three years of the issuance
23 of the first license under the pilot program. The report would
24 contain an evaluation of the pilot program, provide the
25 commission's opinion as to whether the pilot program should be
26 continued and, if so, recommendations for further improvement and
27 implementation. The pilot program would end upon the expiration
28 of the last license issued under the program unless the Legislature
29 enacts a law to continue the program.

ASSEMBLY REGULATORY OVERSIGHT AND GAMING
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4285

STATE OF NEW JERSEY

DATED: JANUARY 5, 2012

The Assembly Regulatory Oversight and Gaming Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 4285.

This bill directs the New Jersey Racing Commission to implement a pilot program for the establishment of interim off-track wagering facilities. Under the program, the commission is to license a lessee or purchaser of a State-owned racetrack to provide patrons with the ability to place wagers on horse races through electronic wagering terminals to be located at a limited number of eligible taverns, restaurants, and similar venues where food, alcoholic beverages, or both, are served to the public for on-premises consumption, in the northern part of the State and subject to the commission's regulation and control.

Under the bill, in lieu of a maximum of one off-track wagering facility license that remains to be utilized or implemented by the New Jersey Sports and Exposition Authority or any lessee of the authority under the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), as amended and supplemented, the commission would issue a license to an entity that has entered into an agreement with the authority to lease or purchase a State-owned racetrack to establish not more than a total of 20 electronic wagering terminals at not more than a total of 12 qualified taverns, restaurants, and similar venues, to enable patrons to place wagers at those locations on in-State and out-of-State horse races. The license issued under the pilot program would be temporary, subject to review and renewal on an annual basis, and would expire within three years of issuance of the initial license. Under the bill, the licensed entity would sign a waiver showing that the licensee understands the terms and conditions of the license.

The bill limits the pilot program to eligible venues located in Bergen, Hudson, Essex, Passaic, Union, Morris, Somerset, Hunterdon, Warren, Sussex, and northern Middlesex and Ocean counties. The commission would develop an application form and process, solicit completed applications submitted jointly by the lessee or purchaser of

a State-owned racetrack and that entity's selected taverns, restaurants, and similar venues located within the aforementioned geographic region, and evaluate each applicant's eligibility using specified criteria. The eligibility criteria is standard for wagering operations, which include but are not limited to proofs of financial resources, evidence integrity, the absence of a criminal conviction, and additional standards and criteria the commission may establish by rule or regulation.

The commission would deny a license to any venue where the placement of electronic wagering terminals would be inimical to existing racetracks, off-track wagering facilities, and simulcasting facilities. Furthermore, the commission would promulgate rules and regulations to develop criteria for determining the number of venues to be approved, provided that the licensee would be limited to a maximum of 12 locations, which maximum number of locations shall be reduced by one per each off-track wagering facility in the authority's share that is newly-established during the implementation of the pilot program, and provided further that not more than 20 electronic wagering terminals would be established in total in this State; evaluate the type and number of electronic wagering terminals that may be approved and used at each licensed venue; develop geographic and impact criteria for denying a license when inimical to existing racing venues; authorize contracts between the licensee and machine vendors and operators; ensure that amounts wagered are distributed according to law in a manner similar to distributions at off-track wagering facilities, except that a local impact fee of 1% of the licensee's share of revenues would be paid to the host municipality for general municipal purposes; provide for the funding of horse racing purses; prevent underage gambling; and regulate any other aspects of the wagering operation the commission deems necessary.

The bill also provides that the commission shall, within 90 days of the effective date of the bill and after notice provided at least seven days before implementation, authorize the temporary adoption of any rule concerning the conduct of wagering under the bill. Such temporary rules would be in effect for no longer than 180 days, or until adopted on a permanent basis using regular rule-making procedures.

Finally, the bill directs the commission to issue a report to the Governor and to the Legislature within three years of the issuance of the license under the pilot program. The report would contain an evaluation of the pilot program, provide the commission's opinion as to whether the pilot program should be continued and, if so, recommendations for further improvement and implementation. The pilot program would end upon the expiration of the license issued under the program unless the Legislature enacts a law to continue the program.

As reported by the committee, this bill is identical to Senate Committee Substitute for Senate Bill No. 3115.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4285
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: JANUARY 11, 2012

SUMMARY

- Synopsis:** Directs New Jersey Racing Commission to implement pilot program for State-owned racetrack purchaser or lessee to establish electronic terminals for wagering on horse races at qualified taverns, restaurants, and similar establishments under one issued license.
- Type of Impact:** Increase in municipal revenue for general purposes.
- Agencies Affected:** Selected local municipal governments to be determined.

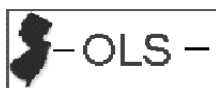
Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Revenue	Indeterminate – See comments below		

- Directs the New Jersey Racing Commission to implement a pilot program to license a lessee or purchaser of a State-owned racetrack to provide patrons with the ability to place wagers on horse races through not more than 20 electronic wagering terminals to be located at no more than 12 eligible taverns, restaurants, and similar venues in designated area of Northern New Jersey.
- Revenues from electronic wagering on horse races would be distributed in the same manner as off-track wagering and account wagering revenues are distributed, except that 1 percent of the wagering revenues realized by the licensee in each municipality would be paid to the host municipality.
- Would result in an indeterminate increase in revenue to host municipalities that remain to be selected.

BILL DESCRIPTION

Assembly Committee Substitute for Assembly Bill No. 4285 directs the New Jersey Racing Commission to license under a pilot program an entity that has entered into an agreement with the New Jersey Sports and Exposition Authority for the lease or sale of a State-owned racetrack



to establish not more than a total of 20 electronic wagering terminals at not more than a total of 12 qualified taverns, restaurants, and similar venues, to enable patrons to place wagers at those locations on in-State and out-of-State horse races. The bill limits the pilot program to eligible venues located in Bergen, Hudson, Essex, Passaic, Union, Morris, Somerset, Hunterdon, Warren, Sussex, and northern Middlesex and Ocean counties. The license issued under the pilot program would be temporary, subject to review and renewal on an annual basis, and would expire within three years of issuance of the initial license unless the program is reinstated by law.

The bill provides that amounts wagered through the electronic wagering terminals will be distributed to winning bettors, the licensed venue, and others in a manner similar to that provided for horse racing in general under section 44 of P.L.1940, c.17 (C.5:5-64), and for off-track wagering and account wagering in particular under section 21 of P.L.2001, c.199 (C.5:5-147) for sums wagered on in-State races, and sections 22 through 25 of P.L.2001, c.199 (C.5:5-148 through C.5:5-151) for sums wagered on out-of-State races, except that a local impact fee of 1 percent of the licensee's share of revenues are to be paid to the host municipality for general municipal purposes. This local impact fee will result in an indeterminate revenue increase for the host municipalities.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the 1 percent of the licensee's share to be paid under the bill as a local impact fee to host municipalities would result in a revenue increase for general municipal purposes, which would be temporary for the three year duration of the pilot program unless the program is continued by law. However, the amount of revenue to be paid to host municipalities cannot be determined due to lack of data concerning the actual type, number, and location of horse racing wagering machines to be implemented under the pilot program. Although the bill provides that up to 20 machines may be implemented at up to 12 locations, the actual gaming equipment has not yet been selected, and it is not yet known whether and where such equipment and location maximums would be implemented.

The OLS notes that the revenues from horse racing electronic wagering terminals under the pilot program will be distributed in the same manner as revenues are distributed under the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.). The following discussion of the applicable distribution formulas for amounts wagered at an off-track wagering facility on in-State and out-of-State races is intended to provide a background within which to interpret potential revenue distributions.

Off-Track (OTW) Wagers on In-State Races

Sums wagered at an OTW facility on an in-State race are deposited into the parimutuel pool generated at the in-State racetrack where the race is taking place, for distribution to winners

according to the same odds as those at the in-State track.¹ The statutes specify the portion of the parimutuel pool to be set aside for various horse racing industry purposes, also known as the takeout,² with the remaining percentage of the amounts in the parimutuel pool to be paid to winning bettors. The payout and takeout percentages vary depending on how many horses the bettor is required to select as winners on a particular race – one horse, two horses, or three or more horses, according to the following table:

Number of Horses Selected As Winners on a Race	1 horse	2 horses	3 or more horses
Amount Required to be paid to Winning Bettors	83%	81%	75%
Takeout (amount for various horse racing industry purposes, including the OTW facility)	17% + breakage ³	19% + breakage	25% + breakage

The payout and takeout percentages shown here are standard for in-State races, but the distribution of the takeout varies depending on the location of the bettor (i.e. Atlantic City casino, host racetrack, other in-State racetrack, OTW facility) and the racetrack in New Jersey where the race is taking place. With respect to wagers placed at an OTW facility on in-State races, the OTW licensee receives a percentage of the takeout on a pro-rata basis, based on the volume of wagering handled by each licensee. In the aggregate, this figure would amount to 10.3 percent, 12.3 percent, or 18.3 percent of the OTW-generated portion of the parimutuel pool on races where one-horse, two-horses, or three-or-more horses won, respectively.⁴ The bill under consideration would dedicate 1 percent of the licensee’s share of revenues under the pilot program to the host municipalities where the electronic wagering machines are placed.

OTW Wagers on Out-of-State Races

The statutes governing OTW wagers on out-of-State races⁵ authorize the OTW licensees to receive simulcasts of live horse races being conducted at out-of-State racetracks, pursuant to New Jersey Racing Commission rules. An OTW licensee must enter into an agreement with the out-of-State sending track where the race is taking place as to the fee the track will charge for the transmission. Also, the amounts wagered at the OTW facility on out-of-State races have to be deposited into either a comparable parimutuel pool at the out-of-State racetrack, or into an

¹ For in-State OTW wagers, the applicable statutes are N.J.S.A.5:5-147 and N.J.S.A.5:5-64 (by reference).

² “Takeout” is the amount deducted from the parimutuel pool which is shared by the racetrack, the horsemen, and in other jurisdictions, by state and local governments in the form of a tax.

³ The breakage amounts are the pennies left over in the parimutuel pool after the payoffs are rounded to the nearest dime. Under N.J.S.A.5:5-64, the breaks are defined as “the odd cents over any multiple of \$0.10, calculated on the basis of \$1.00 otherwise payable to a patron.”

⁴ In addition to the OTW facilities’ share, 6% of the takeout goes to the in-State track for purses; 0.7% goes to horsemen’s programs; and breakage and moneys in the pool from outstanding winning tickets go to the New Jersey Racing Commission to cover racing costs pursuant to N.J.S.A.5:5-152. If there are excess breakage and outstanding ticket funds, 50% of the excess goes to the OTW licensee, and 50% goes to the New Jersey Racing Industry Special Fund. The term “purse” refers to the money awarded as prize by the racetrack to the owners of winning horses. Large purses, or prize money, attract more competitive horses.

⁵ N.J.S.A.5:5-148 through N.J.S.A.5:5-151.

interstate common pool formed by multiple OTW facilities and/or racetracks receiving the simulcast races, pursuant to commission rules.

The amount in the parimutuel pool that is available for distribution will depend on the rules applicable to the particular parimutuel pool. Those rules will determine the types of wagering permitted, takeout amounts, distribution of winnings, method of calculating breakage, and the percentage of deposits remaining undistributed from the parimutuel pool after payment is made to winning bettors, among other matters.

Within that context, N.J.S.A.5:5-151 provides for the following distributions applicable to an OTW facility's wagers on out-of-State races: (1) the takeout amount is deducted and the winnings are paid pursuant to the rules governing the parimutuel pool; (2) the OTW licensee pays the out-of-State sending track a transmission fee, if any; (3) the remaining amount is split 40 percent to the New Jersey Racing Industry Special Fund, and 60 percent to the OTW licensee; (4) breakage and outstanding ticket moneys are distributed.⁶ The bill under consideration would dedicate 1% of the licensee's share of revenues under the pilot program to the host municipalities where the electronic wagering machines are placed.

Section: State Government

Analyst: Raysa Martinez Kruger
Senior Research Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

⁶ Of the breakage and unclaimed ticket amounts resulting from wagering at an OTW facility on out-of-State races, \$150,000 annually go to Jockey's Health and Welfare, and \$150,000 annually go to Standardbred Driver's Health and Welfare. The remainder goes to the commission to cover racing costs pursuant to N.J.S.A.5:5-152. If there are excess breakage and outstanding parimutuel ticket funds, 50% of the excess goes to the OTW licensee, and 50% goes to the New Jersey Racing Industry Special Fund.

SENATE, No. 3115

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED NOVEMBER 21, 2011

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Senator JENNIFER BECK

District 12 (Mercer and Monmouth)

SYNOPSIS

Directs New Jersey Racing Commission to implement pilot program for taverns, restaurants, and similar establishments to provide electronic terminals for wagering on horse races under issued license.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/6/2012)

1 AN ACT concerning the placement of horse racing wagers at certain
2 locations and supplementing the "Off-Track and Account
3 Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Notwithstanding the provisions of the "Off-Track and
9 Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), or any
10 other law, rule, or regulation to the contrary, the New Jersey Racing
11 Commission shall implement a pilot program to license a limited
12 number of eligible taverns, restaurants, and similar venues where
13 food, alcoholic beverages, or both, are served to the public for on-
14 premises consumption, to provide patrons with the ability to place
15 wagers on horse races through electronic wagering terminals,
16 subject to regulation and control by the commission and as further
17 provided by this act, P.L. , c. (C.) (pending before the
18 Legislature as this bill).

19 a. In lieu of a maximum of four off-track wagering facility
20 licenses that remain to be utilized or implemented by the New
21 Jersey Sports and Exposition Authority or any lessee of the
22 authority under the "Off-Track and Account Wagering Act,"
23 P.L.2001, c.199 (C.5:5-127 et seq.), as amended and supplemented,
24 the commission shall issue a limited number of licenses to qualified
25 taverns, restaurants, and similar venues, for the establishment at
26 such venues of one or more electronic wagering terminals to enable
27 patrons to place wagers on in-State and out-of-State horse races,
28 which wagers shall be placed by eligible patrons who are physically
29 present at those locations. Each license issued under this pilot
30 program shall be temporary, subject to review and renewal on an
31 annual basis, and shall expire within three years of issuance of each
32 initial license.

33 b. The pilot program authorized pursuant to this act shall be
34 implemented only in the northern part of the State, in Bergen,
35 Hudson, Essex, Passaic, Union, Morris, Somerset, Hunterdon,
36 Warren, Sussex, and northern Middlesex and Ocean counties. The
37 commission shall develop an application form and process, solicit
38 completed applications from taverns, restaurants, and similar
39 venues located within the aforementioned geographic region, and
40 evaluate each applicant's eligibility using specified criteria which
41 shall include, but not be limited to:

42 (1) proof of financial resources sufficient to enable the applicant
43 to establish and conduct the electronic wagering terminals with
44 appropriately staffed and managed operations;

45 (2) evidence of good character, honesty, competency and
46 integrity;

47 (3) the absence of a conviction for a crime involving fraud,
48 dishonesty or moral turpitude; and

1 (4) any additional standards and criteria the commission may
2 establish by rule or regulation.

3 In evaluating an application for a license, the commission shall
4 ensure that each selected applicant has met all required eligibility
5 criteria. In awarding the license, the commission shall also consider
6 the proximity of the applicant's venue to planned or existing
7 racetracks, off-track wagering facilities, and simulcasting facilities
8 in this State. If, in the opinion of the commission, the issuance of a
9 license for the establishment of electronic wagering terminals at the
10 applicant's venue would be inimical to the interests of a planned or
11 established racetrack, off-track wagering facility, or simulcasting
12 facility, the commission shall deny the license even when the
13 applicant has otherwise met all eligibility criteria.

14 c. To effectuate the provisions of this act, the commission shall
15 promulgate rules and regulations necessary to:

16 (1) develop a rational basis for determining the number of
17 licenses to be awarded under the program, except that not more than
18 60 licenses shall be awarded to qualified venues;

19 (2) evaluate the types of electronic wagering terminals and
20 equipment that may be used in wagering, and the number of such
21 machines to be established at each licensed venue, subject to
22 approval by the commission;

23 (3) develop geographic proximity and impact criteria to
24 determine whether a proposed location would be inimical to the
25 interest of planned or existing racetracks, off-track wagering
26 facilities, and simulcasting facilities in this State, and which criteria
27 shall be used to deny a license as provided under subsection b. of
28 this section;

29 (4) authorize the licensee to enter into contracts with vendors,
30 operators, and other entities, as the case may be, for the
31 establishment and operation of the approved electronic wagering
32 terminals;

33 (5) ensure that amounts wagered through the electronic wagering
34 terminals are properly distributed to winning bettors, the licensed
35 venue, and others in a manner similar to that provided under section
36 44 of P.L.1940, c.17 (C.5:5-64), section 21 of P.L.2001, c.199
37 (C.5:5-147) for sums wagered on in-State races, and sections 22
38 through 25 of P.L.2001, c.199 (C.5:5-148 through C.5:5-151) for
39 sums wagered on out-of-State races, except that a local impact fee
40 of 1% of each machine's gross revenues shall be paid to the host
41 municipality for general municipal purposes;

42 (6) provide that an amount, to be determined by the commission,
43 of the revenues from electronic wagering terminals shall be
44 distributed for the funding of horse racing purses;

45 (7) ensure that persons under the age of 18 years shall not be
46 permitted within the space in the venue where electronic wagering
47 terminals are placed, and that necessary safeguards are in place to
48 prevent minors from wagering; and

1 (8) regulate any other aspects of the electronic wagering
2 operation the commission deems appropriate.

3 d. Within three years of the issuance of the first license under
4 the pilot program, the commission shall issue a report to the
5 Governor, and to the Legislature as provided under section 2 of
6 P.L.1991, c.164 (C.52:14-19.1), containing an evaluation of the
7 pilot program. The report shall also provide the commission's
8 opinion as to whether the pilot program should be continued and, if
9 so, recommendations for further improvement and implementation.
10 The pilot program shall end upon the expiration of the last license
11 issued under the program unless the Legislature enacts a law to
12 continue the program.

13
14 2. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 This bill directs the New Jersey Racing Commission to
20 implement a pilot program to license a limited number of eligible
21 taverns, restaurants, and similar venues where food, alcoholic
22 beverages, or both, are served to the public for on-premises
23 consumption, in the northern part of the State to provide patrons
24 with the ability to place wagers on horse races through electronic
25 wagering terminals, subject to the commission's regulation and
26 control.

27 Under the bill, in lieu of a maximum of four off-track wagering
28 facility licenses that remain to be utilized or implemented by the
29 New Jersey Sports and Exposition Authority or any lessee of the
30 authority under the "Off-Track and Account Wagering Act,"
31 P.L.2001, c.199 (C.5:5-127 et seq.), as amended and supplemented,
32 the commission would issue licenses to qualified taverns,
33 restaurants, and similar venues. The qualified licensees would
34 establish one or more electronic wagering terminals to enable
35 patrons to place wagers at those locations on in-State and out-of-
36 State horse races. Each license issued under the pilot program
37 would be temporary, subject to review and renewal on an annual
38 basis, and would expire within three years of issuance of each initial
39 license.

40 The bill limits the pilot program to eligible venues located in
41 Bergen, Hudson, Essex, Passaic, Union, Morris, Somerset,
42 Hunterdon, Warren, Sussex, and northern Middlesex and Ocean
43 counties. The commission would develop an application form and
44 process, solicit completed applications from taverns, restaurants,
45 and similar venues located within the aforementioned geographic
46 region, and evaluate each applicant's eligibility using specified
47 criteria. The eligibility criteria is standard for wagering operations,
48 which include but are not limited to proofs of financial resources,

1 evidence integrity, the absence of a criminal conviction, and
2 additional standards and criteria the commission may establish by
3 rule or regulation. The commission would deny a license to any
4 venue where the placement of electronic wagering terminals would
5 be inimical to existing racetracks, off-track wagering facilities, and
6 simulcasting facilities. Furthermore, the commission would
7 promulgate rules and regulations to develop criteria for determining
8 the number of licenses to be issued, which could not be more than
9 60 licenses; evaluate the type and number of electronic wagering
10 terminals that may be approved and used at each licensed venue;
11 develop geographic and impact criteria for denying a license when
12 inimical to existing racing venues; authorize contracts between the
13 licensee and machine vendors and operators; ensure that amounts
14 wagered are distributed according to law in a manner similar to
15 distributions at off-track wagering facilities, except that a local
16 impact fee of 1% of each machine's gross revenues would be paid
17 to the host municipality for general municipal purposes; provide for
18 the funding of horse racing purses; prevent underage gambling; and
19 regulate any other aspects of the wagering operation the
20 commission deems necessary.

21 Finally, the bill directs the commission to issue a report to the
22 Governor and to the Legislature within three years of the issuance
23 of the first license under the pilot program. The report would
24 contain an evaluation of the pilot program, provide the
25 commission's opinion as to whether the pilot program should be
26 continued and, if so, recommendations for further improvement and
27 implementation. The pilot program would end upon the expiration
28 of the last license issued under the program unless the Legislature
29 enacts a law to continue the program.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3115

STATE OF NEW JERSEY

DATED: JANUARY 5, 2012

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably a Senate Committee Substitute for Senate Bill No. 3115.

This bill directs the New Jersey Racing Commission to implement a pilot program for the establishment of interim off-track wagering facilities. Under the program, the commission is to license a lessee or purchaser of a State-owned racetrack to provide patrons with the ability to place wagers on horse races through electronic wagering terminals to be located at a limited number of eligible taverns, restaurants, and similar venues where food, alcoholic beverages, or both, are served to the public for on-premises consumption, in the northern part of the State and subject to the commission's regulation and control.

Under the bill, in lieu of a maximum of one off-track wagering facility license that remains to be utilized or implemented by the New Jersey Sports and Exposition Authority or any lessee of the authority under the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), as amended and supplemented, the commission would issue a license to an entity that has entered into an agreement with the authority to lease or purchase a State-owned racetrack to establish not more than a total of 20 electronic wagering terminals at not more than a total of 12 qualified taverns, restaurants, and similar venues, to enable patrons to place wagers at those locations on in-State and out-of-State horse races. The license issued under the pilot program would be temporary, subject to review and renewal on an annual basis, and would expire within three years of issuance of the initial license. Under the bill, the licensed entity would sign a waiver showing that the licensee understands the terms and conditions of the license.

The bill limits the pilot program to eligible venues located in Bergen, Hudson, Essex, Passaic, Union, Morris, Somerset, Hunterdon, Warren, Sussex, and northern Middlesex and Ocean counties. The commission would develop an application form and process, solicit completed applications submitted jointly by the lessee or purchaser of

a State-owned racetrack and that entity's selected taverns, restaurants, and similar venues located within the aforementioned geographic region, and evaluate each applicant's eligibility using specified criteria. The eligibility criteria is standard for wagering operations, which include but are not limited to proofs of financial resources, evidence integrity, the absence of a criminal conviction, and additional standards and criteria the commission may establish by rule or regulation.

The commission would deny a license to any venue where the placement of electronic wagering terminals would be inimical to existing racetracks, off-track wagering facilities, and simulcasting facilities. Furthermore, the commission would promulgate rules and regulations to develop criteria for determining the number of venues to be approved, provided that the licensee would be limited to a maximum of 12 locations, which maximum number of locations shall be reduced by one per each off-track wagering facility in the authority's share that is newly-established during the implementation of the pilot program, and provided further that not more than 20 electronic wagering terminals would be established in total in this State; evaluate the type and number of electronic wagering terminals that may be approved and used at each licensed venue; develop geographic and impact criteria for denying a license when inimical to existing racing venues; authorize contracts between the licensee and machine vendors and operators; ensure that amounts wagered are distributed according to law in a manner similar to distributions at off-track wagering facilities, except that a local impact fee of 1% of the licensee's share of revenues would be paid to the host municipality for general municipal purposes; provide for the funding of horse racing purses; prevent underage gambling; and regulate any other aspects of the wagering operation the commission deems necessary.

The bill also provides that the commission shall, within 90 days of the effective date of the bill and after notice provided at least seven days before implementation, authorize the temporary adoption of any rule concerning the conduct of wagering under the bill. Such temporary rules would be in effect for no longer than 180 days, or until adopted on a permanent basis using regular rule-making procedures.

Finally, the bill directs the commission to issue a report to the Governor and to the Legislature within three years of the issuance of the license under the pilot program. The report would contain an evaluation of the pilot program, provide the commission's opinion as to whether the pilot program should be continued and, if so, recommendations for further improvement and implementation. The pilot program would end upon the expiration of the license issued under the program unless the Legislature enacts a law to continue the program.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3115
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: JANUARY 11, 2012

SUMMARY

- Synopsis:** Directs New Jersey Racing Commission to implement pilot program for State-owned racetrack purchaser or lessee to establish electronic terminals for wagering on horse races at qualified taverns, restaurants, and similar establishments under one issued license.
- Type of Impact:** Increase in municipal revenue for general purposes.
- Agencies Affected:** Selected local municipal governments to be determined.

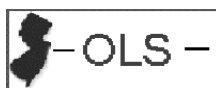
Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Revenue	Indeterminate – See comments below		

- Directs the New Jersey Racing Commission to implement a pilot program to license a lessee or purchaser of a State-owned racetrack to provide patrons with the ability to place wagers on horse races through not more than 20 electronic wagering terminals to be located at no more than 12 eligible taverns, restaurants, and similar venues in designated area of Northern New Jersey.
- Revenues from electronic wagering on horse races would be distributed in the same manner as off-track wagering and account wagering revenues are distributed, except that 1 percent of the wagering revenues realized by the licensee in each municipality would be paid to the host municipality.
- Would result in an indeterminate increase in revenue to host municipalities that remain to be selected.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 3115 directs the New Jersey Racing Commission to license under a pilot program an entity that has entered into an agreement with the New Jersey Sports and Exposition Authority for the lease or sale of a State-owned racetrack



to establish not more than a total of 20 electronic wagering terminals at not more than a total of 12 qualified taverns, restaurants, and similar venues, to enable patrons to place wagers at those locations on in-State and out-of-State horse races. The bill limits the pilot program to eligible venues located in Bergen, Hudson, Essex, Passaic, Union, Morris, Somerset, Hunterdon, Warren, Sussex, and northern Middlesex and Ocean counties. The license issued under the pilot program would be temporary, subject to review and renewal on an annual basis, and would expire within three years of issuance of the initial license unless the program is reinstated by law.

The bill provides that amounts wagered through the electronic wagering terminals will be distributed to winning bettors, the licensed venue, and others in a manner similar to that provided for horse racing in general under section 44 of P.L.1940, c.17 (C.5:5-64), and for off-track wagering and account wagering in particular under section 21 of P.L.2001, c.199 (C.5:5-147) for sums wagered on in-State races, and sections 22 through 25 of P.L.2001, c.199 (C.5:5-148 through C.5:5-151) for sums wagered on out-of-State races, except that a local impact fee of 1 percent of the licensee's share of revenues are to be paid to the host municipality for general municipal purposes. This local impact fee will result in an indeterminate revenue increase for the host municipalities.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the 1 percent of the licensee's share to be paid under the bill as a local impact fee to host municipalities would result in a revenue increase for general municipal purposes, which would be temporary for the three year duration of the pilot program unless the program is continued by law. However, the amount of revenue to be paid to host municipalities cannot be determined due to lack of data concerning the actual type, number, and location of horse racing wagering machines to be implemented under the pilot program. Although the bill provides that up to 20 machines may be implemented at up to 12 locations, the actual gaming equipment has not yet been selected, and it is not yet known whether and where such equipment and location maximums would be implemented.

The OLS notes that the revenues from horse racing electronic wagering terminals under the pilot program will be distributed in the same manner as revenues are distributed under the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.). The following discussion of the applicable distribution formulas for amounts wagered at an off-track wagering facility on in-State and out-of-State races is intended to provide a background within which to interpret potential revenue distributions.

Off-Track (OTW) Wagers on In-State Races

Sums wagered at an OTW facility on an in-State race are deposited into the parimutuel pool generated at the in-State racetrack where the race is taking place, for distribution to winners

according to the same odds as those at the in-State track.¹ The statutes specify the portion of the parimutuel pool to be set aside for various horse racing industry purposes, also known as the takeout,² with the remaining percentage of the amounts in the parimutuel pool to be paid to winning bettors. The payout and takeout percentages vary depending on how many horses the bettor is required to select as winners on a particular race – one horse, two horses, or three or more horses, according to the following table:

Number of Horses Selected As Winners on a Race	1 horse	2 horses	3 or more horses
Amount Required to be paid to Winning Bettors	83%	81%	75%
Takeout (amount for various horse racing industry purposes, including the OTW facility)	17% + breakage ³	19% + breakage	25% + breakage

The payout and takeout percentages shown here are standard for in-State races, but the distribution of the takeout varies depending on the location of the bettor (i.e. Atlantic City casino, host racetrack, other in-State racetrack, OTW facility) and the racetrack in New Jersey where the race is taking place. With respect to wagers placed at an OTW facility on in-State races, the OTW licensee receives a percentage of the takeout on a pro-rata basis, based on the volume of wagering handled by each licensee. In the aggregate, this figure would amount to 10.3 percent, 12.3 percent, or 18.3 percent of the OTW-generated portion of the parimutuel pool on races where one-horse, two-horses, or three-or-more horses won, respectively.⁴ The bill under consideration would dedicate 1 percent of the licensee's share of revenues under the pilot program to the host municipalities where the electronic wagering machines are placed.

OTW Wagers on Out-of-State Races

The statutes governing OTW wagers on out-of-State races⁵ authorize the OTW licensees to receive simulcasts of live horse races being conducted at out-of-State racetracks, pursuant to New Jersey Racing Commission rules. An OTW licensee must enter into an agreement with the out-of-State sending track where the race is taking place as to the fee the track will charge for the transmission. Also, the amounts wagered at the OTW facility on out-of-State races have to be deposited into either a comparable parimutuel pool at the out-of-State racetrack, or into an

¹ For in-State OTW wagers, the applicable statutes are N.J.S.A.5:5-147 and N.J.S.A.5:5-64 (by reference).

² "Takeout" is the amount deducted from the parimutuel pool which is shared by the racetrack, the horsemen, and in other jurisdictions, by state and local governments in the form of a tax.

³ The breakage amounts are the pennies left over in the parimutuel pool after the payoffs are rounded to the nearest dime. Under N.J.S.A.5:5-64, the breaks are defined as "the odd cents over any multiple of \$0.10, calculated on the basis of \$1.00 otherwise payable to a patron."

⁴ In addition to the OTW facilities' share, 6% of the takeout goes to the in-State track for purses; 0.7% goes to horsemen's programs; and breakage and moneys in the pool from outstanding winning tickets go to the New Jersey Racing Commission to cover racing costs pursuant to N.J.S.A.5:5-152. If there are excess breakage and outstanding ticket funds, 50% of the excess goes to the OTW licensee, and 50% goes to the New Jersey Racing Industry Special Fund. The term "purse" refers to the money awarded as prize by the racetrack to the owners of winning horses. Large purses, or prize money, attract more competitive horses.

⁵ N.J.S.A.5:5-148 through N.J.S.A.5:5-151.

interstate common pool formed by multiple OTW facilities and/or racetracks receiving the simulcast races, pursuant to commission rules.

The amount in the parimutuel pool that is available for distribution will depend on the rules applicable to the particular parimutuel pool. Those rules will determine the types of wagering permitted, takeout amounts, distribution of winnings, method of calculating breakage, and the percentage of deposits remaining undistributed from the parimutuel pool after payment is made to winning bettors, among other matters.

Within that context, N.J.S.A.5:5-151 provides for the following distributions applicable to an OTW facility's wagers on out-of-State races: (1) the takeout amount is deducted and the winnings are paid pursuant to the rules governing the parimutuel pool; (2) the OTW licensee pays the out-of-State sending track a transmission fee, if any; (3) the remaining amount is split 40 percent to the New Jersey Racing Industry Special Fund, and 60 percent to the OTW licensee; (4) breakage and outstanding ticket moneys are distributed.⁶ The bill under consideration would dedicate 1 percent of the licensee's share of revenues under the pilot program to the host municipalities where the electronic wagering machines are placed.

Section: State Government

Analyst: Raysa Martinez Kruger
Senior Research Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

⁶ Of the breakage and unclaimed ticket amounts resulting from wagering at an OTW facility on out-of-State races, \$150,000 annually go to Jockey's Health and Welfare, and \$150,000 annually go to Standardbred Driver's Health and Welfare. The remainder goes to the commission to cover racing costs pursuant to N.J.S.A.5:5-152. If there are excess breakage and outstanding parimutuel ticket funds, 50% of the excess goes to the OTW licensee, and 50% goes to the New Jersey Racing Industry Special Fund.