

LEGISLATIVE FISCAL ESTIMATE:

Yes 9/23/2016
6/26/2017

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

- "BC-NJ--Daily Fantasy Sports, NJ," Associated Press State Wire: New Jersey, August 24, 2017
- "Christie signs bill to regulate, tax daily fantasy sports." Associated Press State Wire: New Jersey. August 24, 2017
- "Fantasy sports will be taxes and regulated under new law," The Record, August 25, 2017
- "Fantasy is reality for sports gambling," South Jersey Times, August 25, 2017
- "Christie signs bill to tax, regulate daily fantasy sports," The Star-Ledger, August 25, 2017
- "Daily fantasy sports to be taxed in N.J.," The Times, August 25, 2017
- "Christie signs daily fantasy sports bill, moving industry out of legal gray area," Politico, August 24, 2017
- "Christie signs law regulating taxing fantasy sports in NJ," Observer, August 24, 2017
- "Christie Signs Law Regulating, Taxing Fantasy Sports in NJ," Observer, August 24, 2017
- "New law taxes, regulates fantasy sports in New Jersey," New Jersey 101.5, August 24, 2017
- "Christie just moved to regulate (and tax) fantasy sports companies," nj.com, August 25, 2017

RH/CL

Title 5.
Chapter 20. (New)
Fantasy Sports.
§§1&2 -
C.5:20-1 &
5:20-2
§3 - Note

P.L.2017, CHAPTER 231, *approved August 24, 2017*
Assembly Committee Substitute for
Assembly, No. 3532

1 **AN ACT** providing for the regulation of fantasy sports activities and
2 supplementing Title 5 of the Revised Statutes.

3

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

6

7 1. The Legislature finds and declares as the public policy of
8 this State that:

9 (1) Under the New Jersey Constitution, gambling activities may
10 not be authorized without voter approval;

11 (2) New Jersey courts define gambling as contests in which the
12 elements of chance are considered to play a predominant role or
13 affect a material impact upon the results of the contest;

14 (3) Participation in fantasy sports activities cannot be
15 considered gambling under New Jersey laws because fantasy sports
16 activities are contests in which the relative skill of the participants
17 predominates to a degree that chance plays no material role in
18 determining the outcome of the activities;

19 (4) Further, there is a longstanding and still growing national
20 consensus that fantasy sports activities do not constitute gambling,
21 as shown by the enactment of federal statutes; state laws in New
22 York, Massachusetts, Kansas, Tennessee, and several other states;
23 and current New Jersey regulations adopted by the Division of
24 Gaming Enforcement finding that fantasy sports activities do not
25 constitute gambling; and

26 (5) Therefore, it is within the New Jersey Legislature's
27 constitutional authority to authorize and regulate fantasy sports
28 contests.

29 The Legislature further finds and declares that:

30 (6) Fantasy sports are popular and quickly expanding
31 commercial activities for tens of thousands of New Jersey residents;

32 (7) Investigation of the industry in other states has revealed
33 instances of unethical behavior by some employees of fantasy
34 sports operators, which is enabled by lack of adequate regulation
35 and oversight;

1 (8) It is in the State's interest to protect participants and
2 promote a positive business environment in the conduct of fantasy
3 sports activities;

4 (9) Therefore, it is proper and fitting for the Legislature to
5 regulate the fantasy sports industry and protect consumers of
6 fantasy sports activities in New Jersey; and

7 (10) Fantasy sports activities conducted in accordance with the
8 provisions of P.L. , c. (C.) (pending before the Legislature
9 as this bill) by an operator holding a permit to do so do not
10 constitute:

11 (a) an authorized game or authorized gambling game as defined
12 in section 5 of P.L.1977, c.110 (C.5:12-5);

13 (b) a contest of chance as defined in N.J.S.2C:37-1;

14 (c) gambling as defined in N.J.S.2C:37-1;

15 (d) a gambling transaction pursuant to N.J.S.2A:40-1; or

16 (e) lottery as defined in N.J.S.2C:37-1.

17

18 2. a. As used in this section:

19 "entry fee" means cash or a cash equivalent that is paid by a
20 participant to a fantasy sports operator to participate in a fantasy
21 sports activity offered by that operator, but shall not include a fee
22 paid to an operator that does not offer a prize;

23 "fantasy sports activity" or "fantasy sports activities" means any
24 fantasy or simulated activity or contest with an entry fee in which a
25 participant owns or manages an imaginary team and competes
26 against other participants or a target score for a predetermined prize
27 with the outcome reflecting the relative skill of the participants and
28 determined by statistics generated based on performance by actual
29 individuals participating in actual competitions or athletic events,
30 provided that the outcome shall not be based solely on the
31 performance of an individual athlete, or on the score, point spread,
32 or any performance of any single real team or combination of real
33 teams; "fantasy sports activity" shall not include any activity in
34 which no entry fee is paid to the fantasy sports operator or in which
35 a prize is not collected, managed, or awarded by the operator;

36 "fantasy sports gross revenue" means, for each fantasy sports
37 activity, the amount equal to the total of all entry fees that a fantasy
38 sports operator collects from all participants less only the total of all
39 prizes paid out as prizes to all participants multiplied by the location
40 percentage for this State;

41 "fantasy sports operator" or "operator" means a business entity,
42 including a casino licensee or the holder of a permit to conduct a
43 horse race meeting, that has been issued a permit by the Division of
44 Consumer Affairs in the Department of Law and Public Safety to
45 offer persons the opportunity to participate in a fantasy sports
46 activity;

1 “location percentage” means, for each authorized fantasy sports
2 activity, the percentage rounded to the nearest tenth of one percent
3 (0.1%) of the total entry fees collected from players located in this
4 State, divided by the total entry fees collected from all players in
5 the fantasy sports activity; and

6 “prohibited participant” means an individual who has access to
7 non-public confidential information about fantasy sports activities,
8 any athlete whose performance may be used to determine the
9 outcome of a fantasy sports activity in the sport with which the
10 athlete is associated, any team employee, referee, or league official
11 in a fantasy sports activity in the sport with which that person is
12 associated, and any sports agent associated with any sport used for
13 fantasy sports activities.

14 b. The Division of Consumer Affairs in the Department of Law
15 and Public Safety shall be responsible for the regulation of fantasy
16 sports activities in this State.

17 A fantasy sports operator applicant seeking to conduct fantasy
18 sports activities in this State shall apply to the division for a permit
19 to conduct such activities on such forms and in such manner as the
20 division shall require. The division shall promptly investigate each
21 application, and shall oversee the conduct of activities. The
22 division shall charge a permit fee to each fantasy sports operator
23 applicant that applies for a permit in an amount sufficient to cover
24 the division’s cost in issuing fantasy sports permits and overseeing
25 the conduct of such activities, which permit fee shall be in addition
26 to the quarterly operations fee required pursuant to subsection g. of
27 this section. The division shall have the authority to inspect the
28 facilities of fantasy sports operators in order to ensure the integrity
29 of fantasy sports activities.

30 The division shall allow a fantasy sports operator applicant
31 operating fantasy sports activities on the date of enactment of this
32 act, P.L. , c. (C.) (pending before the Legislature as this
33 bill), to continue to legally operate for up to 60 days after
34 applications for permits are made available to the public by the
35 division. Operator applicants who have applied for a permit during
36 that 60 day period may continue to operate while the application is
37 pending. A provider of fantasy sports activities that has not applied
38 for a permit shall cease operations in this State by the expiration of
39 the 60 day period. A fantasy sports operator applicant that is not
40 operating fantasy sports activities in this State on the effective date
41 of this act shall be prohibited from operating fantasy sports
42 activities pending approval of the applicant’s application for a
43 permit.

44 Upon the granting of a permit, a fantasy sports operator may
45 continue to operate fantasy sports activities pending the renewal of
46 the operator’s permit, provided that the operator has applied for the
47 renewal in a timely manner.

- 1 c. (1) With respect to a fantasy sports operator that is a casino,
2 all equipment used by the holder of the permit, including computers
3 and servers, to conduct fantasy sports activities shall be physically
4 located within the boundaries of the municipality specified in
5 section 20 of P.L. 2013, c.27 (C.5:12-95.22) for the location of
6 Internet gambling equipment.
- 7 (2) With respect to a fantasy sports operator that is not a casino,
8 at least one server used to conduct fantasy sports activities shall be
9 physically located within the boundaries of the municipality
10 specified in section 20 of P.L. 2013, c.27 (C.5:12-95.22) on or
11 before January 1, 2018.
- 12 d. The division shall regulate the conduct of fantasy sports
13 activities by fantasy sports operators that have been issued a permit
14 by the division to conduct fantasy sports activities.
- 15 e. The division shall permit a fantasy sports operator to
16 conduct fantasy sports activities subject to the following conditions:
17 the outcome of fantasy sports activities shall be determined by
18 statistics generated based on the performance of actual individuals
19 participating in real competitions or athletic events;
20 all prizes offered to participants shall be established and
21 disclosed in advance to all participants;
22 the outcome shall not be based solely on the performance of an
23 individual athlete, or on the score, point spread, or any performance
24 of a single real team or combination of real teams;
25 a fantasy sports operator may permit participants to use a mobile
26 account or a participant deposit account;
27 a casino licensee or licensed racetrack may use its facilities to
28 accept entry fees and to pay prizes;
29 a casino licensee may partner with, or enter into a contract with,
30 one or more fantasy sports operators to offer fantasy sports
31 activities, notwithstanding the provisions of section 104 of
32 P.L.1977, c.110 (C.5:12-104); and
33 a participant in a fantasy sports activity shall be at least 18 years
34 of age.
- 35 f. A fantasy sports operator shall:
36 use commercially reasonable practices to prohibit the sharing of
37 statistical information with third parties that could affect a fantasy
38 sports activity until that information is publicly available;
39 adopt procedures to ensure that any prohibited participant does
40 not participate in fantasy sports activities;
41 adopt procedures to ensure that a fantasy sports participant is at
42 least 18 years of age;
43 offer individuals the ability to restrict themselves from
44 participating in fantasy sports activities and take reasonable steps to
45 prevent any such individual from participating in fantasy sports
46 activities;

1 prohibit fantasy sports activities based upon high school
2 athletics;

3 contract with a certified public accountant to perform a financial
4 audit of the operator to ensure compliance with the provisions of
5 this section and submit the accountant's report to the division on an
6 annual basis;

7 disclose the number of entries a participant may submit to each
8 fantasy sports activity and take reasonable steps to prevent a
9 participant from exceeding that number; and

10 segregate participants' funds from operational funds and
11 maintain a reserve in cash, cash equivalents, payment processor
12 reserves and receivables; and an irrevocable letter of credit, a bond,
13 or a combination thereof in the amount of the deposits in
14 participants' accounts for the benefit and protection of participants'
15 funds held in fantasy sports activity accounts.

16 g. A fantasy sports operator shall pay, on a quarterly basis, to
17 the division for deposit into the general fund of the State, an
18 operations fee in an amount equal to 10.5 percent of fantasy sports
19 gross revenue for each quarter. The administration of the
20 operations fee, including but not limited to the form, method, and
21 manner of the assessment, collection, and enforcement thereof, shall
22 be as determined by the division pursuant to regulations that,
23 notwithstanding any provisions of the "Administrative Procedure
24 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may be adopted by the
25 division immediately upon filing with the Office of Administrative
26 Law the regulations as the division deems necessary to implement
27 this subsection, which regulations shall be effective for a period not
28 to exceed 360 days following the date of enactment of P.L. ,
29 c. (pending before the Legislature as this bill) and may thereafter
30 be amended, adopted, or readopted by the division in accordance
31 with the "Administrative Procedure Act," P.L.1968,
32 c.410 (C.52:14B-1 et seq.).

33 With respect to a fantasy sports operator that is a casino, an entry
34 fee, management fee, or other revenue generated from a fantasy
35 sports activity shall not be considered "gross revenue" as defined in
36 section 24 of P.L.1977, c.110 (C.5:12-24) or "Internet gaming gross
37 revenue" as defined in section 6 of P.L.2013, c.27 (C.5:12-28.2),
38 and no investment alternative tax provided for by any other
39 provision of law shall apply to fantasy sports operators.

40 h. (1) Any person who provides fantasy sports activities
41 without approval of the division shall be subject to a fine of not
42 more than \$25,000 and, in the case of a person other than a natural
43 person, to a fine of not more than \$100,000.

44 (2) Any person who knowingly tampers with software,
45 computers, or other equipment used to conduct fantasy sports
46 activities to alter the payout of an activity or disables the activity
47 from operating according to the rules of the activity as promulgated

1 by the division shall be subject to a fine of not more than \$50,000
2 and, in the case of a person other than a natural person, to a fine of
3 not more than \$200,000.

4 (3) Any person who knowingly offers or allows to be offered
5 any fantasy sports activity that has been tampered with in a way that
6 affects the payout of an activity or disables the activity from
7 operating according to the rules of the activity as promulgated by
8 the division shall be subject to a fine of not more than \$50,000 and,
9 in the case of a person other than a natural person, to a fine of not
10 more than \$200,000.

11 (4) Any person who violates any provision of this section shall
12 be subject to a fine of not more than \$25,000 and, in the case of a
13 person other than a natural person, to a fine of not more than
14 \$100,000, and to injunctive relief to prevent future violations of this
15 section.

16 (5) Notwithstanding the penalties provided for in this
17 subsection, the division shall, in accordance with the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
19 seq.), adopt and promulgate such rules and regulations as may be
20 necessary to address additional violations of this section. The
21 division shall also have the authority to disqualify an operator either
22 by allowing the operator to voluntarily withdraw from the operation
23 of fantasy sports activities, or by suspending the operations of the
24 operator, or by revoking the permit to conduct such operations.

25 (6) The fines provided by this subsection shall be in addition to
26 any fine or penalty that may be imposed pursuant to any criminal
27 law of this State.

28 i. Fantasy sports activities shall be conducted in New Jersey
29 only in accordance with the provisions of this section.

30
31 3. This act shall take effect on the 90th day after the date of
32 enactment, except that the Division of Consumer Affairs may take
33 any anticipatory administrative actions in advance as shall be
34 necessary for the implementation of this act.

35

36

37

38

39 Provides for regulation of fantasy sports activities in New Jersey.

ASSEMBLY, No. 3532

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED APRIL 4, 2016

Sponsored by:

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Assemblyman Giblin

SYNOPSIS

Provides for regulation of daily fantasy sports games in New Jersey by DLPS.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/17/2016)

1 AN ACT providing for the regulation of daily fantasy sports games
2 and supplementing Title 5 of the Revised Statutes.

3

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

6

7 1. a. As used in this section:

8 “daily fantasy sports game” means any fantasy or simulated
9 game or contest involving athletic events in which a participant
10 owns or manages an imaginary sports team and competes against
11 other participants or a target score for a predetermined prize with
12 the outcome reflecting the relative skill of the participants and
13 determined by statistics generated based on performance by actual
14 individuals participating in actual professional or collegiate athletic
15 events, provided that the outcome shall not be based solely on the
16 performance of an individual athlete, or on the score, point spread,
17 or any performance of any single real team or combination of real
18 teams;

19 “daily fantasy sports gross revenue“ means the total of all sums
20 actually received by a daily fantasy sports provider from daily
21 fantasy sports game operations less only the total of all sums
22 actually paid out as prizes to participants; and

23 “daily fantasy sports provider” means a business entity,
24 including a casino licensee, that has been issued a permit by the
25 Department of Law and Public Safety to offer persons the
26 opportunity to participate in a daily fantasy sports game.

27 b. A daily fantasy sports provider seeking to conduct daily
28 fantasy sports games shall apply to the department for a permit to
29 conduct such games on such forms and in such manner as the
30 department shall require. The department shall promptly
31 investigate each application, inspect and examine all premises
32 where daily fantasy sports games are conducted, and oversee the
33 conduct of games. The department shall charge a permit fee to each
34 daily fantasy sports provider that applies for a permit in an amount
35 sufficient to cover the department’s cost in issuing daily fantasy
36 sports permits and overseeing the conduct of such games, which
37 permit fee shall be in addition to the annual registration and renewal
38 fee required pursuant to subsection g. of this section.

39 A provider operating daily fantasy sports games on the date of
40 enactment of this act, P.L. , c. (C.) (pending before the
41 Legislature as this bill) shall be permitted to continue its operations
42 pending approval of the provider’s application for a permit. A
43 provider that is not operating daily fantasy sports games on the date
44 of enactment of this act shall be prohibited from operating daily
45 fantasy sports games pending approval of the provider’s application
46 for a permit.

47 Upon the granting of a permit, a provider may continue to
48 operate daily fantasy sports games pending the renewal of the

1 provider's permit, provided that the provider has applied for the
2 renewal in a timely manner.

3 c. (1) With respect to a permit holder that is a casino, all
4 equipment used by the holder of the permit, including computers
5 and servers, to conduct daily fantasy sports games shall be
6 physically located within the boundaries of the municipality
7 specified in section 20 of P.L. 2013, c.27 (C.5:12-95.22) for the
8 location of Internet gambling equipment.

9 (2) With respect to a daily fantasy sports provider that is not a
10 casino, at least one server used to conduct daily fantasy sports
11 games shall be physically located within the boundaries of the
12 municipality specified in section 20 of P.L. 2013, c.27 (C.5:12-
13 95.22) on or before January 1, 2018.

14 d. The department shall regulate the conduct of daily fantasy
15 sports games by daily fantasy sports providers that have been issued
16 a permit by the department to conduct daily fantasy sports games.

17 e. The department shall permit a daily fantasy sports provider to
18 conduct daily fantasy sports games subject to the following
19 conditions:

20 the outcome shall be determined by statistics generated based on
21 the performance of actual individuals participating in real
22 professional or collegiate athletic events;

23 all prizes offered to participants shall be established and
24 disclosed in advance to all participants;

25 the outcome shall not be based solely on the performance of an
26 individual athlete, or on the score, point spread, or any performance
27 of a single real team or combination of real teams;

28 a daily fantasy sports provider may permit participants to use a
29 mobile wagering account or a participant deposit account;

30 a casino licensee may use its facilities to accept entry fees and to
31 pay prizes;

32 a casino licensee may partner with, or enter into a contract with,
33 one or more daily fantasy sports providers to offer daily fantasy
34 sports games, notwithstanding the provisions of section 104 of P.L.
35 1977, c.110 (C. 5:12-104);

36 a participant in a daily fantasy sports game shall be at least 18
37 years of age;

38 a person listed on the Division of Gaming Enforcement's self-
39 exclusion list or Internet gaming self-exclusion list shall not be
40 allowed to participate in a daily fantasy sports game; and

41 a daily fantasy sports provider shall not market daily fantasy
42 sports to any person listed on the division's self-exclusion list or
43 Internet gaming self-exclusion list.

44 f. A daily fantasy sports provider shall:

45 prohibit its employees, and immediate family members thereof
46 living in the same household, from participating in a daily fantasy
47 sports game offering a cash prize greater than \$5;

1 prohibit the sharing of statistical information with third parties
2 that could affect a daily fantasy sports game until that information
3 is publicly available;

4 not participate in a daily fantasy sports game offered by that
5 daily fantasy sports provider;

6 adopt procedures to ensure that a daily fantasy sports participant
7 is at least 18 years of age;

8 ensure that individuals who participate or officiate in a game that
9 is the subject of a daily fantasy sports game shall not participate in a
10 daily fantasy sports game that is determined, in whole or in part, on
11 the accumulated statistical results of a team of individuals in the
12 game or contest in which that person is a participant or official;

13 offer individuals the ability to restrict themselves from
14 participating in daily fantasy sports games and take reasonable steps
15 to prevent any such individual from participating in daily fantasy
16 sports games;

17 disclose the number of entries a participant may submit to each
18 daily fantasy sports game and take reasonable steps to prevent a
19 participant from exceeding that number; and

20 segregate participant's funds from operational funds and
21 maintain a reserve in cash, cash equivalents, an irrevocable letter of
22 credit, a bond, or a combination thereof in the amount of the
23 deposits in participants' accounts for the benefit and protection of
24 authorized daily fantasy sports games participants funds held in
25 daily fantasy sports game accounts.

26 g. A daily fantasy sports provider shall pay an annual
27 registration and renewal fee in an amount equal to 9.25 percent of
28 daily fantasy sports gross revenue.

29 With respect to a permit holder that is a casino, an entry fee,
30 management fee, or other revenue generated from a fantasy sports
31 game shall not be considered "gross revenue" as defined in section
32 24 of P.L.1977, c.110 (C.5:12-24) or "Internet gaming gross
33 revenue" as defined in section 6 of P.L.2013, c.27 (C.5:12-28.2),
34 and no investment alternative tax provided for by any other
35 provision of law shall apply to daily fantasy sports providers.

36 h. (1) Any person who provides daily fantasy sports games
37 without approval of the department to do shall be subject to a fine
38 of not more than \$25,000 and, in the case of a person other than a
39 natural person, to a fine of not more than \$100,000, and to any other
40 appropriate disposition authorized by law.

41 (2) Any person who knowingly tampers with software,
42 computers, or other equipment used to conduct daily fantasy sports
43 games to alter the odds or the payout of a game or disables the
44 game from operating according to the rules of the game as
45 promulgated by the department shall be subject to a fine of not
46 more than \$50,000 and, in the case of a person other than a natural
47 person, to a fine of not more than \$200,000, and to any other
48 appropriate disposition authorized by law.

1 (3) Any person who knowingly offers or allows to be offered
2 any daily fantasy sports game that has been tampered with in a way
3 that affects the odds or the payout of a game or disables the game
4 from operating according to the rules of the game as promulgated
5 by the department shall be subject to a fine of not more than
6 \$50,000 and, in the case of a person other than a natural person, to a
7 fine of not more than \$200,000, and to any other appropriate
8 disposition authorized by law.

9 (4) Any person who violates any provision of this section shall
10 be subject to a fine of not more than \$25,000 and, in the case of a
11 person other than a natural person, to a fine of not more than
12 \$100,000, and to any other appropriate disposition authorized by
13 law.

14 (5) Notwithstanding the penalties provided for in this
15 subsection, the department shall, in accordance with the
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
17 seq.), adopt and promulgate such rules and regulations as may be
18 necessary to address additional violations of this section. The
19 department shall also have the authority to disqualify a provider
20 when the provider withdraws from the operation of daily fantasy
21 sports games, by suspending the operations of the provider, or by
22 revoking the permit to conduct such operations.

23 i. Daily fantasy sports games shall be conducted in New Jersey
24 only in accordance with the provisions of this section.
25

26 2. This act shall take effect on the 90th day after the date of
27 enactment, except that the Department of Law and Public Safety
28 may take any anticipatory administrative actions in advance as shall
29 be necessary for the implementation of this act.
30

31

32 STATEMENT

33

34 This bill provides that the Department of Law and Public Safety
35 will issue permits to casino licensees and other business entities that
36 desire to conduct daily fantasy sports games in New Jersey and will
37 be responsible for regulating that activity. The department will
38 charge each participating casino or daily fantasy sports provider a
39 permit fee in an amount sufficient to cover the department's cost in
40 issuing daily fantasy sports permits and overseeing the conduct of
41 such games.

42 With respect to a permit holder that is a casino, all equipment
43 used by the holder of the permit, including computers and servers,
44 to conduct daily fantasy sports games shall be physically located
45 within the boundaries of Atlantic City for the location of Internet
46 gambling equipment.

47 With respect to a daily fantasy sports provider that is not a
48 casino, at least one server used to conduct daily fantasy sports

1 games shall be physically located within the boundaries of the
2 Atlantic City on or before January 1, 2018.

3 The bill also provides that:

4 the outcome of a game will be determined by statistics generated
5 based on the performance of actual individuals participating in real
6 professional or collegiate athletic events;

7 all prizes offered to participants will be established and disclosed
8 in advance to all participants;

9 the outcome will not be based solely on the performance of an
10 individual athlete, or on the score, point spread, or any performance
11 of a single real team or combination of real teams;

12 a daily fantasy sports provider may permit participant to use a
13 mobile wagering account or a participant deposit account;

14 a casino licensee may use its facilities to accept entry fees and to
15 pay prizes;

16 a casino licensee may partner with, or enter into a contract with,
17 one or more daily fantasy sports providers to offer daily fantasy
18 sports games;

19 a participant in a daily fantasy sports game must be at least 18
20 years of age;

21 a person listed on a casino gambling self-exclusion list or
22 Internet gaming self-exclusion list will not be allowed to participate
23 in a daily fantasy sports game; and

24 a casino or a daily fantasy sports provider will not market daily
25 fantasy sports to any person listed on a casino gambling self-
26 exclusion list or Internet gaming self-exclusion list.

27 In addition, the bill contains provisions to address ethical issues
28 that may confront casinos and daily fantasy sports providers. A
29 casino or provider must:

30 prohibit its employees, and immediate family members thereof
31 living in the same household, from participating in a daily fantasy
32 sports game offering a cash prize greater than \$5;

33 prohibit the sharing of statistical information with third parties
34 that could affect a daily fantasy sports game until that information
35 is publicly available;

36 not participate in a daily fantasy sports game offered by that
37 casino or daily fantasy sports provider;

38 adopt procedures to ensure that a daily fantasy sports participant
39 is at least 18 years of age;

40 ensure that individuals who participate or officiate in a game that
41 is the subject of a daily fantasy sports game shall not participate in a
42 daily fantasy sports game that is determined, in whole or in part, on
43 the accumulated statistical results of a team of individuals in the
44 game or contest in which that person is a participant or official;

45 offer individuals the ability to restrict themselves from
46 participating in daily fantasy sports games and take reasonable steps
47 to prevent any such individual from participating in daily fantasy
48 sports games;

1 disclose the number of entries a participant may submit to each
2 daily fantasy sports game and take reasonable steps to prevent a
3 participant from exceeding that number; and

4 segregate participant's funds from operational funds and
5 maintain a reserve in cash, cash equivalents, an irrevocable letter of
6 credit, a bond, or a combination thereof in the amount of the
7 deposits in participant accounts for the benefit and protection of
8 authorized daily fantasy sports games participants funds held in
9 daily fantasy sports game accounts.

10 The bill imposes an annual registration and renewal fee for all
11 daily fantasy sports providers in an amount equal to 9.25% of daily
12 fantasy sports gross revenue. Also, the bill sets forth penalties for
13 violations of the provisions of the bill and regulations.

14 Daily fantasy sports games will be conducted in New Jersey only
15 in accordance with the bill's provisions.

16 The bill will take effect on the 90th day after the date of
17 enactment, but the Department of Law and Public Safety may take
18 any anticipatory administrative actions in advance as may be
19 necessary for the bill's implementation.

ASSEMBLY TOURISM, GAMING AND THE ARTS
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3532

STATE OF NEW JERSEY

DATED: JANUARY 30, 2017

The Assembly Tourism, Gaming and the Arts Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3532.

This substitute requires the Division of Consumer Affairs in the Department of Law and Public Safety to regulate fantasy sports activities in this State. Under the substitute, a fantasy sports operator is required to apply to the division for a permit. The division would issue a permit if the following conditions are met: (1) the outcome of fantasy sports activities must be determined by statistics generated based on the performance of actual individuals participating in real competitions or athletic events; (2) all prizes offered to participants must be established and disclosed in advance; (3) the outcome must not be based solely on the performance of an individual athlete, or on the score, point spread, or any performance of a single real team or combination of real teams; (4) a fantasy sports operator may permit participants to use a mobile account or a participant deposit account; (5) a casino licensee or licensed racetrack may use its facilities to accept entry fees and to pay prizes; (6) a casino licensee may partner with, or enter into a contract with, one or more fantasy sports operators to offer fantasy sports activities; and (7) a participant in a fantasy sports activity must be at least 18 years of age. An existing fantasy sports provider would have 60 days from the bill's enactment to apply for a permit, and may continue to conduct those activities pending the permit's approval.

The substitute also requires a fantasy sports operator to: (1) use commercially reasonable practices to prohibit the sharing of statistical information with third parties that could affect a fantasy sports activity until that information is publicly available; (2) adopt procedures to ensure that any prohibited participant does not participate in fantasy sports activities; (3) adopt procedures to ensure that a fantasy sports participant is at least 18 years of age; (4) offer individuals the ability to restrict themselves from participating in fantasy sports activities and take reasonable steps to prevent any such individual from participating in fantasy sports activities; (5) prohibit fantasy sports activities based upon high school athletics; (6) contract with a certified public

accountant to perform a financial audit of the operator to ensure compliance with the substitute and submit the accountant's report to the division on an annual basis; (7) disclose the number of entries a participant may submit to each fantasy sports activity and take reasonable steps to prevent a participant from exceeding that number; and (8) segregate participants' funds from operational funds and maintain certain monetary reserves and financial instruments in the amount of the deposits in participants' accounts for the benefit and protection of participants' funds. If the fantasy sports operator is a casino, all equipment used to conduct fantasy sports activities must be physically located in Atlantic City. If the fantasy sports operator is not a casino, at least one server used to conduct fantasy sports activities must be located in that city.

The substitute directs the division to charge a permit fee to each fantasy sports operator applicant in an amount sufficient to cover the division's cost in issuing fantasy sports permits and overseeing the conduct of such activities. A fantasy sport operator is also required to pay to the division on a quarterly basis an operations fee in an amount equal to 10.5 percent of fantasy sports gross revenue for each quarter for deposit into the general fund of the State.

Finally, the substitute imposes various penalties for any person who, among other actions: (1) conducts fantasy sports activity without a permit; (2) knowingly tampers with software, computers, or other equipment used to conduct fantasy sports activities to alter the payout of an activity or disables the activity from operating according to the division's rules; and (3) knowingly offers or allows to be offered any fantasy sports activity that has been tampered with in a way that affects the payout of an activity or disables the activity from operating according to the division's rules. The division is authorized to disqualify an operator by allowing the operator to voluntarily withdraw from the operation of fantasy sports activities, suspending the operations, or revoking the permit.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3532

STATE OF NEW JERSEY

DATED: MARCH 20, 2017

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3532.

This bill requires the Division of Consumer Affairs in the Department of Law and Public Safety to regulate fantasy sports activities in this State.

The bill requires a fantasy sports operator apply to the division for a permit. The division would issue a permit if the following conditions are met:

(1) the outcome of fantasy sports activities must be determined by statistics generated based on the performance of actual individuals participating in real competitions or athletic events;

(2) all prizes offered to participants must be established and disclosed in advance;

(3) the outcome must not be based solely on the performance of an individual athlete, or on the score, point spread, or any performance of a single real team or combination of real teams;

(4) a fantasy sports operator may permit participants to use a mobile account or a participant deposit account;

(5) a casino license or licensed racetrack may use its facilities to accept entry fees and to pay prizes;

(6) a casino licensee may partner with, or enter into a contract with, one or more fantasy sports operators to offer fantasy sports activities; and

(7) a participant in a fantasy sports activity must be at least 18 years of age.

An existing fantasy sports provider would have 60 days from the bill's enactment to apply for a permit, and may continue to conduct those activities pending the permit's approval.

The bill also requires a fantasy sports operator to:

(1) use commercially reasonable practices to prohibit the sharing of statistical information with third parties that could affect a fantasy sports activity until that information is publicly available;

(2) adopt procedures to ensure that any prohibited participant does not participate in fantasy sports activities;

(3) adopt procedures to ensure that a fantasy sports participant is at least 18 years of age;

(4) offer individuals the ability to restrict themselves from participating in fantasy sports activities and take reasonable steps to

prevent any such individual from participating in fantasy sports activities;

(5) prohibit fantasy sports activities based upon high school athletics;

(6) contract with a certified public accountant to perform a financial audit of the operator to ensure compliance with the substitute and submit the accountant's report to the division on an annual basis;

(7) disclose the number of entries a participant may submit to each fantasy sports activity and take reasonable steps to prevent a participant from exceeding that number; and

(8) segregate participants' funds from operational funds and maintain certain monetary reserves and financial instruments in the amount of the deposits in participants' accounts for the benefit and protection of participants' funds.

If the fantasy sports operator is a casino, all equipment used to conduct fantasy sports activities must be physically located in Atlantic City. If the fantasy sports operator is not a casino, at least one server used to conduct fantasy sports activities must be located in that city.

The bill directs the division to charge a permit fee to each fantasy sports operator applicant in an amount sufficient to cover the division's cost in issuing fantasy sports permits and overseeing the conduct of such activities. A fantasy sport operator is also required to pay to the division on a quarterly basis an operations fee in an amount equal to 10.5 percent of fantasy sports gross revenue for each quarter for deposit into the general fund of the State.

Finally, the bill imposes various penalties for any person who, among other actions:

(1) conducts fantasy sports activity without a permit;

(2) knowingly tampers with software, computers, or other equipment used to conduct fantasy sports activities to alter the payout of an activity or disables the activity from operating according to the division's rules; and

(3) knowingly offers or allows to be offered any fantasy sports activity that has been tampered with in a way that affects the payout of an activity or disables the activity from operating according to the division's rules.

The division is authorized to disqualify an operator by allowing the operator to voluntarily withdraw from the operation of fantasy sports activities, suspending the operations, or revoking the permit.

FISCAL IMPACT:

The Office of Legislative Services estimates that the bill will produce an annual net State revenue gain of at least \$6.6 million. The amount reflects \$6.6 million in projected annual revenue collections from a new fee imposed on the gross revenue of fantasy sports operators plus indeterminate collections from new penalties assessed for violations of fantasy sports activity regulations.

The Department of Law and Public Safety will incur an indeterminate annual increase in operating expenditures associated with the permitting and regulation of fantasy sports operators; however, the bill requires the department to set and collect permitting fees so that fee collections offset the cost of regulation.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3532
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: MARCH 15, 2017

SUMMARY

Synopsis: Provides for regulation of fantasy sports activities in New Jersey.

Type of Impact: Annual Net Revenue Increase to State General Fund.

Agencies Affected: Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Annual State Revenue Increase	At Least \$6.6 Million		
Annual State Cost Increase	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) estimates that the bill will produce an annual net State revenue gain of at least \$6.6 million. The amount reflects \$6.6 million in projected annual revenue collections from a new fee imposed on the gross revenue of fantasy sports operators plus indeterminate collections from new penalties assessed for violations of fantasy sports activity regulations.
- The Department of Law and Public Safety will incur an indeterminate annual increase in operating expenditures associated with the permitting and regulation of fantasy sports operators; however, the bill requires the department to set and collect permitting fees so that fee collections offset the cost of regulation.

BILL DESCRIPTION

The Assembly Committee Substitute for Assembly Bill No. 3532 of 2016 provides for regulation of fantasy sports activities in New Jersey by the Division of Consumer Affairs in the Department of Law and Public Safety.

Beginning on the 90th day after the bill’s date of enactment, fantasy sports operators will need a department-issued permit to operate in New Jersey. Operators offering fantasy sports activities in this State on the date of enactment will be allowed to continue doing so without a

permit for a period of 60 days after the department makes applications for permits available to the public or longer if an operator's permit application is pending.

A casino permit holder must physically locate all equipment used to conduct fantasy sports activities in Atlantic City. A non-casino permit holder must physically locate at least one server used to conduct fantasy sports activities in Atlantic City on or before January 1, 2018.

In return for the right to operate in New Jersey fantasy sports activity providers will have to pay: a) a recurring permit fee in an amount that covers the department's cost in regulating and overseeing fantasy sports activities; and b) a quarterly operations fee equal to 10.5 percent of fantasy sports gross revenue, which the bill defines as the difference between a permit holder's total fantasy sports receipts and total prize payouts multiplied by the percentage of total entry fees collected from New Jersey resident players divided by total entry fees collected from all players.

In addition to authorizing the department to adopt rules and regulation to address violations not enumerated in the bill, the legislation specifies the following penalties:

- operating fantasy sports activities without a permit is subject to a fine of not more than \$25,000 (or not more than \$100,000 if the operator is not a natural person) and to any other disposition authorized by law;
- knowingly tampering with equipment used to conduct fantasy sports activities to alter the payout or disabling the activity from operating in accordance with to State rules is subject to a fine of not more than \$50,000 (or not more than \$200,000 if the operator is not a natural person) and to any other disposition authorized by law;
- knowingly offering or allowing to be offered any fantasy sports activity that has been tampered with in a way that affects the payout of the activity or disables the activities from operating in accordance with State rules is subject to a fine of not more than \$50,000 (or not more than \$200,000 if the operator is not a natural person) and to any other disposition authorized by law;
- violating any other provision of the bill is subject to a fine of not more than \$25,000 (or not more than \$100,000 if the operator is not a natural person) and to any other disposition authorized by law; and
- the department may disqualify an operator or revoke an operator's permit.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will produce an annual net State revenue gain of at least \$6.6 million. The amount reflects \$6.6 million in projected annual revenue collections from a new fee imposed on the gross revenue of fantasy sports operators plus indeterminate collections from new penalties assessed for violations of fantasy sports activity regulations.

In addition, the Department of Law and Public Safety will incur an indeterminate annual increase in operating expenditures associated with the permitting and regulation of fantasy sports operators; however, the bill requires the department to set and collect permitting fees so that fee collections offset the cost of regulation.

State Expenditure Increase: The bill requires the department to regulate fantasy sports activities. Regulatory activities will include the review of permit applications, the inspection and examination of fantasy sports operator premises, and the oversight of operations to ensure compliance with State rules and regulations.

These activities will increase annual department operating expenses. The OLS, however, cannot determine the increase's magnitude because of uncertainty regarding the size of New Jersey's future regulated fantasy sports market and operational decisions the department will make to implement the bill. Whatever the cost, the bill instructs the department to charge fantasy sports operators a permitting fee that will cover the cost of regulation.

State Revenue Gain: The bill establishes three new State revenue streams: a recurring fantasy sports operator permitting fee, penalty collections from violations of regulatory requirements, and a quarterly operations fee.

Permitting Fee: The department will newly collect recurring revenue from fantasy sports operator permitting fees. The OLS, however, cannot determine the collections' magnitude and periodicity for two reasons. First, the bill requires the department to set the fee at a level that covers the department's cost of regulating the industry. But the OLS cannot anticipate the regulatory expenses and, by extension, the level at which the department will set the fee. Second, the bill leaves the frequency of permit renewals to the department's discretion.

Penalties: The bill will produce recurring State revenue from several new penalties for violating fantasy sports regulations. Given the emergent nature of fantasy sports industry regulations across the nation, however, the OLS has no information on which to base an estimate of the number and magnitude of future penalty assessments and payments.

Quarterly Operations Fee: The OLS estimates that the quarterly operations fee equal to 10.5 percent of fantasy sports gross revenue, as the bill defines the term, might result in annual State revenue collections of about \$6.6 million, assuming that the bill will not alter the size of New Jersey's fantasy sports market.

In the absence of information on New Jersey fantasy sports gross revenue, the OLS uses national Fantasy Sports Trade Association (FSTA) data for its analysis. The association estimates that 18 percent of adults in the United States play fantasy sports and that the average player aged 18 and above spends \$502 combined on daily fantasy sports (\$318) and traditional fantasy sports (\$184) over a 12-month period. For purposes of this estimate, the OLS assumes that traditional and daily fantasy sports will both be subject to the provisions of this bill.

Given the United States Census Bureau estimate that about 6.9 million residents aged 18 and above lived in New Jersey on July 1, 2014, if 18 percent thereof play fantasy sports, then about 1.25 million New Jersey residents participate in fantasy sports.

If each New Jersey player spends the FSTA-reported \$502 national average on fantasy sports, then New Jersey players cumulatively spend \$625.8 million on fantasy sports.

The bill applies the 10.5 percent tax rate to a fantasy sports operator's gross revenue, or a permit holder's total fantasy sports activity receipts less total prize payouts multiplied by the percentage of total entry fees collected from New Jersey resident players divided by total entry fees collected from all players.

According to news reports, fantasy sports operators collect a "rake" of about 10 percent of entry fees with specific rates varying by activities. If operators receive 10 percent of the estimated \$625.8 million in annual fantasy sports expenditures of New Jersey residents as taxable gross revenue, then about \$62.6 million will become taxable. At the 10.5 percent tax rate annual State revenue collections will therefore approximate \$6.6 million.

FE to ACS for A3532

4

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

SENATE, No. 1927

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED MARCH 7, 2016

Sponsored by:
Senator JIM WHELAN
District 2 (Atlantic)

SYNOPSIS

Provides for regulation of daily fantasy sports games in New Jersey by DLPS.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT providing for the regulation of daily fantasy sports games
2 and supplementing Title 5 of the Revised Statutes.

3

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

6

7 1. a. As used in this section:

8 “daily fantasy sports game” means any fantasy or simulated
9 game or contest involving athletic events in which a participant
10 owns or manages an imaginary sports team and competes against
11 other participants or a target score for a predetermined prize with
12 the outcome reflecting the relative skill of the participants and
13 determined by statistics generated based on performance by actual
14 individuals participating in actual professional or collegiate athletic
15 events, provided that the outcome shall not be based solely on the
16 performance of an individual athlete, or on the score, point spread,
17 or any performance of any single real team or combination of real
18 teams;

19 “daily fantasy sports gross revenue“ means the total of all sums
20 actually received by a daily fantasy sports provider from daily
21 fantasy sports game operations less only the total of all sums
22 actually paid out as prizes to participants; and

23 “daily fantasy sports provider” means a business entity,
24 including a casino licensee, that has been issued a permit by the
25 Department of Law and Public Safety to offer persons the
26 opportunity to participate in a daily fantasy sports game.

27 b. A daily fantasy sports provider seeking to conduct daily
28 fantasy sports games shall apply to the department for a permit to
29 conduct such games on such forms and in such manner as the
30 department shall require. The department shall promptly
31 investigate each application, inspect and examine all premises
32 where daily fantasy sports games are conducted, and oversee the
33 conduct of games. The department shall charge a permit fee to each
34 daily fantasy sports provider that applies for a permit in an amount
35 sufficient to cover the department’s cost in issuing daily fantasy
36 sports permits and overseeing the conduct of such games, which
37 permit fee shall be in addition to the annual registration and renewal
38 fee required pursuant to subsection g. of this section.

39 A provider operating daily fantasy sports games on the date of
40 enactment of this act, P.L. , c. (C.) (pending before the
41 Legislature as this bill) shall be permitted to continue its operations
42 pending approval of the provider’s application for a permit. A
43 provider that is not operating daily fantasy sports games on the date
44 of enactment of this act shall be prohibited from operating daily
45 fantasy sports games pending approval of the provider’s application
46 for a permit.

47 Upon the granting of a permit, a provider may continue to
48 operate daily fantasy sports games pending the renewal of the

1 provider's permit, provided that the provider has applied for the
2 renewal in a timely manner.

3 c. (1) With respect to a permit holder that is a casino, all
4 equipment used by the holder of the permit, including computers
5 and servers, to conduct daily fantasy sports games shall be
6 physically located within the boundaries of the municipality
7 specified in section 20 of P.L. 2013, c.27 (C.5:12-95.22) for the
8 location of Internet gambling equipment.

9 (2) With respect to a daily fantasy sports provider that is not a
10 casino, at least one server used to conduct daily fantasy sports
11 games shall be physically located within the boundaries of the
12 municipality specified in section 20 of P.L. 2013, c.27 (C.5:12-
13 95.22) on or before January 1, 2018.

14 d. The department shall regulate the conduct of daily fantasy
15 sports games by daily fantasy sports providers that have been issued
16 a permit by the department to conduct daily fantasy sports games.

17 e. The department shall permit a daily fantasy sports provider to
18 conduct daily fantasy sports games subject to the following
19 conditions:

20 the outcome shall be determined by statistics generated based on
21 the performance of actual individuals participating in real
22 professional or collegiate athletic events;

23 all prizes offered to participants shall be established and
24 disclosed in advance to all participants;

25 the outcome shall not be based solely on the performance of an
26 individual athlete, or on the score, point spread, or any performance
27 of a single real team or combination of real teams;

28 a daily fantasy sports provider may permit participants to use a
29 mobile wagering account or a participant deposit account;

30 a casino licensee may use its facilities to accept entry fees and to
31 pay prizes;

32 a casino licensee may partner with, or enter into a contract with,
33 one or more daily fantasy sports providers to offer daily fantasy
34 sports games, notwithstanding the provisions of section 104 of
35 P.L.1977, c.110 (C. 5:12-104);

36 a participant in a daily fantasy sports game shall be at least 18
37 years of age;

38 a person listed on the Division of Gaming Enforcement's self-
39 exclusion list or Internet gaming self-exclusion list shall not be
40 allowed to participate in a daily fantasy sports game; and

41 a daily fantasy sports provider shall not market daily fantasy
42 sports to any person listed on the division's self-exclusion list or
43 Internet gaming self-exclusion list.

44 f. A daily fantasy sports provider shall:

45 prohibit its employees, and immediate family members thereof
46 living in the same household, from participating in a daily fantasy
47 sports game offering a cash prize greater than \$5;

1 prohibit the sharing of statistical information with third parties
2 that could affect a daily fantasy sports game until that information
3 is publicly available;

4 not participate in a daily fantasy sports game offered by that
5 daily fantasy sports provider;

6 adopt procedures to ensure that a daily fantasy sports participant
7 is at least 18 years of age;

8 ensure that individuals who participate or officiate in a game that
9 is the subject of a daily fantasy sports game shall not participate in a
10 daily fantasy sports game that is determined, in whole or in part, on
11 the accumulated statistical results of a team of individuals in the
12 game or contest in which that person is a participant or official;

13 offer individuals the ability to restrict themselves from
14 participating in daily fantasy sports games and take reasonable steps
15 to prevent any such individual from participating in daily fantasy
16 sports games;

17 disclose the number of entries a participant may submit to each
18 daily fantasy sports game and take reasonable steps to prevent a
19 participant from exceeding that number; and

20 segregate participant's funds from operational funds and
21 maintain a reserve in cash, cash equivalents, an irrevocable letter of
22 credit, a bond, or a combination thereof in the amount of the
23 deposits in participants' accounts for the benefit and protection of
24 authorized daily fantasy sports games participants funds held in
25 daily fantasy sports game accounts.

26 g. A daily fantasy sports provider shall pay an annual
27 registration and renewal fee in an amount equal to 9.25 percent of
28 daily fantasy sports gross revenue.

29 With respect to a permit holder that is a casino, an entry fee,
30 management fee, or other revenue generated from a fantasy sports
31 game shall not be considered "gross revenue" as defined in section
32 24 of P.L.1977, c.110 (C.5:12-24) or "Internet gaming gross
33 revenue" as defined in section 6 of P.L.2013, c.27 (C.5:12-28.2),
34 and no investment alternative tax provided for by any other
35 provision of law shall apply to daily fantasy sports providers.

36 h. (1) Any person who provides daily fantasy sports games
37 without approval of the department to do shall be subject to a fine
38 of not more than \$25,000 and, in the case of a person other than a
39 natural person, to a fine of not more than \$100,000, and to any other
40 appropriate disposition authorized by law.

41 (2) Any person who knowingly tampers with software,
42 computers, or other equipment used to conduct daily fantasy sports
43 games to alter the odds or the payout of a game or disables the
44 game from operating according to the rules of the game as
45 promulgated by the department shall be subject to a fine of not
46 more than \$50,000 and, in the case of a person other than a natural
47 person, to a fine of not more than \$200,000, and to any other
48 appropriate disposition authorized by law.

1 (3) Any person who knowingly offers or allows to be offered
2 any daily fantasy sports game that has been tampered with in a way
3 that affects the odds or the payout of a game or disables the game
4 from operating according to the rules of the game as promulgated
5 by the department shall be subject to a fine of not more than
6 \$50,000 and, in the case of a person other than a natural person, to a
7 fine of not more than \$200,000, and to any other appropriate
8 disposition authorized by law.

9 (4) Any person who violates any provision of this section shall
10 be subject to a fine of not more than \$25,000 and, in the case of a
11 person other than a natural person, to a fine of not more than
12 \$100,000, and to any other appropriate disposition authorized by
13 law.

14 (5) Notwithstanding the penalties provided for in this
15 subsection, the department shall, in accordance with the
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
17 seq.), adopt and promulgate such rules and regulations as may be
18 necessary to address additional violations of this section. The
19 department shall also have the authority to disqualify a provider
20 when the provider withdraws from the operation of daily fantasy
21 sports games, by suspending the operations of the provider, or by
22 revoking the permit to conduct such operations.

23 i. Daily fantasy sports games shall be conducted in New Jersey
24 only in accordance with the provisions of this section.
25

26 2. This act shall take effect on the 90th day after the date of
27 enactment, except that the Department of Law and Public Safety
28 may take any anticipatory administrative actions in advance as shall
29 be necessary for the implementation of this act.
30

31 STATEMENT

32
33 This bill provides that the Department of Law and Public Safety
34 will issue permits to casino licensees and other business entities that
35 desire to conduct daily fantasy sports games in New Jersey and will
36 be responsible for regulating that activity. The department will
37 charge each participating casino or daily fantasy sports provider a
38 permit fee in an amount sufficient to cover the department's cost in
39 issuing daily fantasy sports permits and overseeing the conduct of
40 such games.

41 With respect to a permit holder that is a casino, all equipment
42 used by the holder of the permit, including computers and servers,
43 to conduct daily fantasy sports games shall be physically located
44 within the boundaries of Atlantic City for the location of Internet
45 gambling equipment.

46 With respect to a daily fantasy sports provider that is not a
47 casino, at least one server used to conduct daily fantasy sports

1 games shall be physically located within the boundaries of the
2 Atlantic City on or before January 1, 2018.

3 The bill also provides that:

4 the outcome of a game will be determined by statistics generated
5 based on the performance of actual individuals participating in real
6 professional or collegiate athletic events;

7 all prizes offered to participants will be established and disclosed
8 in advance to all participants;

9 the outcome will not be based solely on the performance of an
10 individual athlete, or on the score, point spread, or any performance
11 of a single real team or combination of real teams;

12 a daily fantasy sports provider may permit participant to use a
13 mobile wagering account or a participant deposit account;

14 a casino licensee may use its facilities to accept entry fees and to
15 pay prizes;

16 a casino licensee may partner with, or enter into a contract with,
17 one or more daily fantasy sports providers to offer daily fantasy
18 sports games;

19 a participant in a daily fantasy sports game must be at least 18
20 years of age;

21 a person listed on a casino gambling self-exclusion list or
22 Internet gaming self-exclusion list will not be allowed to participate
23 in a daily fantasy sports game; and

24 a casino or a daily fantasy sports provider will not market daily
25 fantasy sports to any person listed on a casino gambling self-
26 exclusion list or Internet gaming self-exclusion list.

27 In addition, the bill contains provisions to address ethical issues
28 that may confront casinos and daily fantasy sports providers. A
29 casino or provider must:

30 prohibit its employees, and immediate family members thereof
31 living in the same household, from participating in a daily fantasy
32 sports game offering a cash prize greater than \$5;

33 prohibit the sharing of statistical information with third parties
34 that could affect a daily fantasy sports game until that information
35 is publicly available;

36 not participate in a daily fantasy sports game offered by that
37 casino or daily fantasy sports provider;

38 adopt procedures to ensure that a daily fantasy sports participant
39 is at least 18 years of age;

40 ensure that individuals who participate or officiate in a game that
41 is the subject of a daily fantasy sports game shall not participate in a
42 daily fantasy sports game that is determined, in whole or in part, on
43 the accumulated statistical results of a team of individuals in the
44 game or contest in which that person is a participant or official;

45 offer individuals the ability to restrict themselves from
46 participating in daily fantasy sports games and take reasonable steps
47 to prevent any such individual from participating in daily fantasy
48 sports games;

1 disclose the number of entries a participant may submit to each
2 daily fantasy sports game and take reasonable steps to prevent a
3 participant from exceeding that number; and

4 segregate participant's funds from operational funds and
5 maintain a reserve in cash, cash equivalents, an irrevocable letter of
6 credit, a bond, or a combination thereof in the amount of the
7 deposits in participant accounts for the benefit and protection of
8 authorized daily fantasy sports games participants funds held in
9 daily fantasy sports game accounts.

10 The bill imposes an annual registration and renewal fee for all
11 daily fantasy sports providers in an amount equal to 9.25% of daily
12 fantasy sports gross revenue. Also, the bill sets forth penalties for
13 violations of the provisions of the bill and regulations.

14 Daily fantasy sports games will be conducted in New Jersey only
15 in accordance with the bill's provisions.

16 The bill will take effect on the 90th day after the date of
17 enactment, but the Department of Law and Public Safety may take
18 any anticipatory administrative actions in advance as may be
19 necessary for the bill's implementation.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO
SENATE, No. 1927

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 14, 2016

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably and with committee amendments Senate Bill No. 1927.

As amended, this bill provides that the Department of Law and Public Safety will issue permits to casino licensees and other business entities that desire to conduct daily fantasy sports games in New Jersey and will be responsible for regulating that activity. The department will charge each participating casino or daily fantasy sports provider a permit fee in an amount sufficient to cover the department's cost in issuing daily fantasy sports permits and overseeing the conduct of such games.

With respect to a permit holder that is a casino, all equipment used by the holder thereof, including computers and servers, to conduct daily fantasy sports games must be physically located within the boundaries of Atlantic City.

With respect to a daily fantasy sports provider that is not a casino, at least one server used to conduct daily fantasy sports games must be physically located within the boundaries of the Atlantic City on or before January 1, 2018.

The bill also provides that:

a prohibited participant includes any daily fantasy sports provider and other additional prohibited persons;

the outcome of a game will be determined by statistics generated based on the performance of actual individuals participating in real professional or collegiate athletic events;

all prizes offered to participants will be established and disclosed in advance to all participants;

the outcome will not be based solely on the performance of an individual athlete, or on the score, point spread, or any performance of a single real team or combination of real teams;

a daily fantasy sports provider may permit a participant to use a mobile wagering account or a participant deposit account;

a casino licensee may use its facilities to accept entry fees and to pay prizes;

a casino licensee may partner with, or enter into a contract with, one or more daily fantasy sports providers to offer daily fantasy sports games;

a participant in a daily fantasy sports game must be at least 18 years of age;

a person listed on a casino gambling self-exclusion list or Internet gaming self-exclusion list will not be allowed to participate in a daily fantasy sports game; and

a casino or a daily fantasy sports provider will not market daily fantasy sports to any person listed on a casino gambling self-exclusion list or Internet gaming self-exclusion list.

In addition, the bill contains provisions to address ethical issues that may confront casinos and daily fantasy sports providers. A casino or provider must:

adopt procedures to ensure that any prohibited participant does not participate in daily fantasy sports games;

prohibit the sharing of statistical information with third parties that could affect a daily fantasy sports game until that information is publicly available;

adopt procedures to ensure that a daily fantasy sports participant is at least 18 years of age;

ensure that individuals who participate or officiate in a game that is the subject of a daily fantasy sports game shall not participate in a daily fantasy sports game that is determined, in whole or in part, on the accumulated statistical results of a team of individuals in the game or contest in which that person is a participant or official;

offer individuals the ability to restrict themselves from participating in daily fantasy sports games and take reasonable steps to prevent any such individual from participating in daily fantasy sports games;

disclose the number of entries a participant may submit to each daily fantasy sports game and take reasonable steps to prevent a participant from exceeding that number; and

segregate a participant's funds from operational funds and maintain a reserve in cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof in the amount of the deposits in participants' accounts for the benefit and protection of authorized daily fantasy sports games participants' funds held in daily fantasy sports game accounts.

The bill imposes an annual registration and renewal fee for all daily fantasy sports providers in an amount equal to 9.25% of daily fantasy sports gross revenue. Also, the bill sets forth penalties for violations of the provisions of the bill and regulations. In the case of a violation of the provisions of the bill, a provider can either withdraw voluntarily or agree to stop operations. If neither occurs, the department would have the authority to suspend or revoke the permit to conduct the games.

COMMITTEE AMENDMENTS

The committee amended the bill to add a definition of a prohibited participant that would include any daily fantasy sports provider and would add additional prohibited persons not specified in the current bill. The bill previously provided that a daily fantasy sports provider is prohibited from participating only in a game offered by that provider. Additionally, the amendment requires a daily fantasy sports provider to adopt procedures to ensure that any prohibited participant does not participate in daily fantasy sports games. The amendment also provides that in the case of a violation of the provisions of the bill, a provider can either withdraw voluntarily or agree to stop operations. If neither occurs, the department would have the authority to suspend or revoke the permit to conduct the games.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1927

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 6, 2016

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1927, with committee amendments.

As amended, this bill provides for the regulation of daily fantasy sports games in New Jersey by the Department of Law and Public Safety.

Under the bill, a provider seeking to conduct daily fantasy sports games must apply to the department for a permit to conduct daily fantasy sports games. The bill requires the department to investigate each application, inspect and examine all premises where daily fantasy sports games are conducted, and oversee the conduct of those games.

The bill provides that if a provider granted a permit is a casino, all equipment used by the permit holder, including computers and servers, to conduct daily fantasy sports games must be physically located within Atlantic City. Additionally, if a provider granted a permit is not a casino, the bill requires at least one server used to conduct daily fantasy sports games to be physically located within Atlantic City on or before January 1, 2018.

The bill requires the department to permit a daily fantasy sports provider to conduct daily fantasy sports games subject to the following conditions:

-- the outcome of a game will be determined by statistics generated based on the performance of actual individuals participating in real professional or collegiate athletic events;

-- all prizes offered to participants will be established and disclosed in advance to all participants;

-- the outcome will not be based solely on the performance of an individual athlete, or on the score, point spread, or any performance of a single real team or combination of real teams;

-- a daily fantasy sports provider may permit a participant to use a mobile wagering account or a participant deposit account;

-- a casino licensee may use its facilities to accept entry fees and to pay prizes;

- a casino licensee may partner with, or enter into a contract with, one or more daily fantasy sports providers to offer daily fantasy sports games;

- a participant in a daily fantasy sports game must be at least 18 years of age;

- a person listed on a casino gambling self-exclusion list or Internet gaming self-exclusion list will not be allowed to participate in a daily fantasy sports game; and

- a casino or a daily fantasy sports provider will not market daily fantasy sports to any person listed on a casino gambling self-exclusion list or Internet gaming self-exclusion list.

The bill contains provisions to address certain ethical issues that may confront casinos and daily fantasy sports providers. The bill provides that a casino or provider must:

- prohibit the sharing of statistical information with third parties that could affect a daily fantasy sports game until that information is publicly available;

- adopt procedures to ensure that any prohibited participant does not participate in daily fantasy sports games;

- adopt procedures to ensure that a daily fantasy sports participant is at least 18 years of age;

- ensure that individuals who participate or officiate in a game that is the subject of a daily fantasy sports game will not participate in a daily fantasy sports game that is determined, in whole or in part, on the accumulated statistical results of a team of individuals in the game or contest in which that person is a participant or official;

- offer individuals the ability to restrict themselves from participating in daily fantasy sports games and take reasonable steps to prevent any such individual from participating in daily fantasy sports games;

- disclose the number of entries a participant may submit to each daily fantasy sports game and take reasonable steps to prevent a participant from exceeding that number; and

- segregate a participant's funds from operational funds and maintain a reserve in cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof in the amount of the deposits in participants' accounts for the benefit and protection of authorized daily fantasy sports games participants' funds held in daily fantasy sports game accounts.

The bill requires the department to charge each participating casino or daily fantasy sports provider a permit fee in an amount sufficient to cover the department's cost in issuing daily fantasy sports permits and overseeing the conduct of such games, and imposes a separate annual registration and renewal fee for all daily fantasy sports providers. The bill provides that the annual registration and renewal fee shall be in an amount equal 9.25% of daily fantasy sports gross revenue, which is defined as the total of all sums actually received by a daily fantasy

sports provider from daily fantasy sports game operations less only the total of all sums actually paid out as prizes to participants multiplied by the percentage, rounded to the nearest tenth of one percent (0.1%), of the total entry fees collected from New Jersey residents divided by the total entry fees collected from all players, regardless of such players' location.

The bill establishes penalties for certain violations of the bill, and provides for the department to adopt rules and regulation to address additional violations not enumerated by the bill. The bill authorizes the department to disqualify a provider by allowing the provider to voluntarily withdraw from the operations of daily fantasy sports games or by suspending the operations of the provider, or by revoking the permit to conduct such operations.

The bill takes effect on the 90th day after the date of enactment, but permits the department to take anticipatory administrative actions in advance of the effective date as are necessary to implement the bill.

COMMITTEE AMENDMENTS:

The amendments revise the definition of daily fantasy sports gross revenue to clarify for purposes of the annual registration and renewal fee that gross revenue is defined as the total of all sums actually received by a daily fantasy sports provider from daily fantasy sports game operations less only the total of all sums actually paid out as prizes to participants multiplied by the percentage, rounded to the nearest tenth of one percent (0.1%), of the total entry fees collected from New Jersey residents divided by the total entry fees collected from all players, regardless of such players' location.

The amendments also stipulate that the administration of the annual registration and renewal fee, including but not limited to the form, method, and manner of the assessment, collection, and enforcement, is to be determined by the department pursuant to regulations.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will result in increased annual State revenue and increased annual State expenditures of indeterminate amounts.

Increased State revenues will result from the annual registration and renewal fee of 9.25% of daily fantasy sports gross revenue. No information is available to OLS upon which to base an estimate of the annual gross revenue to which this fee will pertain. Gross revenue and therefore fee revenue will be determined by the number of approved providers, the degree of participation in daily games offered by those providers, and the payment of entry fees from New Jersey residents. Increased State revenues will also result from permit fees charged to providers by the department, and from the collection of fines for violations as specified by the bill.

The department will incur additional expenditures to regulate daily fantasy sports games. Permit fees are expected to be sufficient to cover these additional expenditures.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 1927

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: SEPTEMBER 23, 2016

- Synopsis:** Provides for regulation of daily fantasy sports games in New Jersey by DLPS.
- Type of Impact:** Annual Net Revenue Increase to State General Fund.
- Agencies Affected:** Division of Gaming Enforcement in the Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Annual State Revenue Increase	At Least \$5.8 Million		
Annual State Cost Increase	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) estimates that the bill will produce an annual net State revenue gain of at least \$5.8 million. The amount reflects \$5.8 million in projected annual revenue collections from a new fee imposed on the gross revenue of daily fantasy sports game operators plus indeterminate collections from new penalties assessed for violations of daily fantasy sports game regulations.
- The Department of Law and Public Safety will incur an indeterminate annual increase in operating expenditures associated with the permitting and regulation of daily fantasy sports game operators; however, the bill requires the department to set and collect permitting fees so that fee collections offset the cost of regulation.

BILL DESCRIPTION

Senate Bill No. 1927 (2R) of 2016 provides for the regulation of daily fantasy sports games by the Department of Law and Public Safety.

Beginning on the 90th day after the bill's date of enactment, daily fantasy sports game providers will need a department-issued permit to operate in New Jersey, except that providers offering daily fantasy sports games in this State on the date of enactment will be allowed to continue doing so without a permit if their permit application is pending approval.

A casino permit holder must physically locate all equipment used to conduct daily fantasy sports games in Atlantic City. A non-casino permit holder must physically locate at least one server used to conduct daily fantasy sports games in Atlantic City on or before January 1, 2018.

In return for the right to operate in New Jersey daily fantasy sports game providers will have to pay: a) a recurring permit fee in an amount that covers the department's cost in regulating and overseeing daily fantasy sports games; and b) an annual registration and renewal fee equal to 9.25 percent of daily fantasy sports gross revenue, which the bill defines as the difference between a permit holder's total daily fantasy sports receipts and total prize payouts multiplied by the percentage of total entry fees collected from New Jersey resident players divided by total entry fees collected from all players.

In addition to authorizing the department to adopt rules and regulation to address violations not enumerated in the bill, the legislation specifies the following penalties:

- operating daily fantasy sports games without a permit is subject to a fine of not more than \$25,000 (or not more than \$100,000 if the operator is not a natural person) and to any other disposition authorized by law;
- knowingly tampering with equipment used to conduct daily fantasy sports games to alter a game's odds or payout or disabling the game from operating in accordance with to State rules is subject to a fine of not more than \$50,000 (or not more than \$200,000 if the operator is not a natural person) and to any other disposition authorized by law;
- knowingly offering or allowing to be offered any daily fantasy sports game that has been tampered with in a way that affects a game's odds or payout or disables the game from operating in accordance with State rules is subject to a fine of not more than \$50,000 (or not more than \$200,000 if the operator is not a natural person) and to any other disposition authorized by law;
- violating any other provision of the bill is subject to a fine of not more than \$25,000 (or not more than \$100,000 if the operator is not a natural person) and to any other disposition authorized by law; and
- the department may suspend a provider's operations or revoke a provider's permit.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will produce an annual net revenue gain to the State General Fund of at least \$5.8 million. The amount reflects \$5.8 million in projected annual revenue collections from a new fee imposed on the gross revenue of daily fantasy sports game operators plus indeterminate collections from new penalties assessed for violations of daily fantasy sports game regulations.

In addition, the Department of Law and Public Safety will incur an indeterminate annual increase in operating expenditures associated with the permitting and regulation of daily fantasy sports game operators; however, the bill requires the department to set and collect permitting fees so that fee collections offset the cost of regulation.

State Expenditure Increase: The bill requires the department to regulate daily fantasy sports games. Regulatory activities will include the review of permit applications, the inspection and examination of daily fantasy sports game premises, and the oversight of game operations to ensure compliance with State rules and regulations.

These activities will increase annual department operating expenses. The OLS, however, cannot determine the increase's magnitude because of uncertainty regarding the size of New Jersey's future regulated daily fantasy sports market and operational decisions the department will make to implement the bill. Whatever the cost, the bill instructs the department to charge daily fantasy sports game operators a permitting fee that will cover the cost of regulation.

State Revenue Gain: The bill establishes three new State revenue streams: a recurring daily fantasy sports operator permitting fee, penalty collections from violations of regulatory requirements, and an annual registration and renewal fee.

Permitting Fee: The department will newly collect recurring revenue from daily fantasy sports operator permitting fees. The OLS, however, cannot determine the collection's magnitude and periodicity for two reasons. First, the bill requires the department to set the fee at a level that covers the department's cost of regulating the industry. But the OLS cannot anticipate the regulatory expenses and, by extension, the level at which the department will set the fee. Second, the bill leaves the frequency of permit renewals to the department's discretion.

Penalties: The bill will produce recurring State revenue from several new penalties for violating daily fantasy sports regulations. Given the emergent nature of fantasy sports industry regulations across the nation, however, the OLS has no information on which to base an estimate of the number and magnitude of future penalty assessments and payments.

Annual Registration and Renewal Fee: The OLS estimates that the annual registration and renewal fee equal to 9.25 percent of daily fantasy sports gross revenue, as the bill defines the term, might result in annual State revenue collections of about \$5.8 million, assuming that the bill will not alter the size of New Jersey's daily fantasy sports market. Annual fee collections can be expected to fluctuate in tandem with industry gross revenue.

In the absence of information on New Jersey daily fantasy sports gross revenue, the OLS uses national Fantasy Sports Trade Association (FSTA) data for its analysis. The association estimates that 18 percent of adults in the United States play fantasy sports and that the average player aged 18 and above spends \$502 combined on daily fantasy sports (\$318) and traditional fantasy sports (\$184) over a 12-month period. For purposes of this estimate, the OLS assumes that traditional and daily fantasy sports will both be subject to the provisions of this bill.

Given the United States Census Bureau estimate that about 6.9 million residents aged 18 and above lived in New Jersey on July 1, 2014, if 18 percent thereof play fantasy sports, then about 1.25 million New Jersey residents participate in fantasy sports.

If each New Jersey player spends the FSTA-reported \$502 national average on fantasy sports, then New Jersey players cumulatively spend \$625.8 million on fantasy sports.

The bill applies the 9.25 percent tax rate to a daily fantasy sports game operator's gross revenue, or a permit holder's total daily fantasy sports game receipts less total prize payouts multiplied by the percentage of total entry fees collected from New Jersey resident players divided by total entry fees collected from all players.

According to news reports, fantasy sports operators collect a "rake" of about 10 percent of entry fees with specific rates varying by game. If game operators receive 10 percent of the estimated \$625.8 million in annual fantasy sports expenditures of New Jersey residents as taxable gross revenue, then about \$62.6 million will become taxable. At the 9.25 percent tax rate annual State revenue collections will therefore approximate \$5.8 million.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

LEGISLATIVE FISCAL ESTIMATE
SENATE SUBSTITUTE FOR
SENATE, No. 1927
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: JUNE 26, 2017

SUMMARY

Synopsis: Provides for regulation of fantasy sports activities in New Jersey.

Type of Impact: Annual Net Revenue Increase to State General Fund.

Agencies Affected: Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Annual State Revenue Increase	At Least \$6.6 Million		
Annual State Cost Increase	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) estimates that the bill will produce an annual net State revenue gain of at least \$6.6 million. The amount reflects \$6.6 million in projected annual revenue collections from a new fee imposed on the gross revenue of fantasy sports operators plus indeterminate collections from new penalties assessed for violations of fantasy sports activity regulations.
- The Department of Law and Public Safety will incur an indeterminate annual increase in operating expenditures associated with the permitting and regulation of fantasy sports operators; however, the bill requires the department to set and collect permitting fees so that fee collections offset the cost of regulation.

BILL DESCRIPTION

The Senate Substitute for Senate Bill No. 1927 of 2016 provides for regulation of fantasy sports activities in New Jersey by the Division of Consumer Affairs in the Department of Law and Public Safety.

Beginning on the 90th day after the bill’s date of enactment, fantasy sports operators will need a department-issued permit to operate in New Jersey. Operators offering fantasy sports activities in this State on the date of enactment will be allowed to continue doing so without a



permit for a period of 60 days after the department makes applications for permits available to the public or longer if an operator's permit application is pending.

A casino permit holder must physically locate all equipment used to conduct fantasy sports activities in Atlantic City. A non-casino permit holder must physically locate at least one server used to conduct fantasy sports activities in Atlantic City on or before January 1, 2018.

In return for the right to operate in New Jersey fantasy sports activity providers will have to pay: a) a recurring permit fee in an amount that covers the department's cost in regulating and overseeing fantasy sports activities; and b) a quarterly operations fee equal to 10.5 percent of fantasy sports gross revenue, which the bill defines as the difference between a permit holder's total fantasy sports receipts and total prize payouts multiplied by the percentage of total entry fees collected from New Jersey resident players divided by total entry fees collected from all players.

In addition to authorizing the department to adopt rules and regulation to address violations not enumerated in the bill, the legislation specifies the following penalties:

- operating fantasy sports activities without a permit is subject to a fine of not more than \$25,000 (or not more than \$100,000 if the operator is not a natural person) and to any other disposition authorized by law;
- knowingly tampering with equipment used to conduct fantasy sports activities to alter the payout or disabling the activity from operating in accordance with to State rules is subject to a fine of not more than \$50,000 (or not more than \$200,000 if the operator is not a natural person) and to any other disposition authorized by law;
- knowingly offering or allowing to be offered any fantasy sports activity that has been tampered with in a way that affects the payout of the activity or disables the activities from operating in accordance with State rules is subject to a fine of not more than \$50,000 (or not more than \$200,000 if the operator is not a natural person) and to any other disposition authorized by law;
- violating any other provision of the bill is subject to a fine of not more than \$25,000 (or not more than \$100,000 if the operator is not a natural person) and to any other disposition authorized by law; and
- the department may disqualify an operator or revoke an operator's permit.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will produce an annual net State revenue gain of at least \$6.6 million. The amount reflects \$6.6 million in projected annual revenue collections from a new fee imposed on the gross revenue of fantasy sports operators plus indeterminate collections from new penalties assessed for violations of fantasy sports activity regulations.

In addition, the Department of Law and Public Safety will incur an indeterminate annual increase in operating expenditures associated with the permitting and regulation of fantasy sports

operators; however, the bill requires the department to set and collect permitting fees so that fee collections offset the cost of regulation.

State Expenditure Increase: The bill requires the department to regulate fantasy sports activities. Regulatory activities will include the review of permit applications, the inspection and examination of fantasy sports operator premises, and the oversight of operations to ensure compliance with State rules and regulations.

These activities will increase annual department operating expenses. The OLS, however, cannot determine the increase's magnitude because of uncertainty regarding the size of New Jersey's future regulated fantasy sports market and operational decisions the department will make to implement the bill. Whatever the cost, the bill instructs the department to charge fantasy sports operators a permitting fee that will cover the cost of regulation.

State Revenue Gain: The bill establishes three new State revenue streams: a recurring fantasy sports operator permitting fee, penalty collections from violations of regulatory requirements, and a quarterly operations fee.

Permitting Fee: The department will newly collect recurring revenue from fantasy sports operator permitting fees. The OLS, however, cannot determine the collections' magnitude and periodicity for two reasons. First, the bill requires the department to set the fee at a level that covers the department's cost of regulating the industry. But the OLS cannot anticipate the regulatory expenses and, by extension, the level at which the department will set the fee. Second, the bill leaves the frequency of permit renewals to the department's discretion.

Penalties: The bill will produce recurring State revenue from several new penalties for violating fantasy sports regulations. Given the emergent nature of fantasy sports industry regulations across the nation, however, the OLS has no information on which to base an estimate of the number and magnitude of future penalty assessments and payments.

Quarterly Operations Fee: The OLS estimates that the quarterly operations fee equal to 10.5 percent of fantasy sports gross revenue, as the bill defines the term, might result in annual State revenue collections of about \$6.6 million, assuming that the bill will not alter the size of New Jersey's fantasy sports market.

In the absence of information on New Jersey fantasy sports gross revenue, the OLS uses national Fantasy Sports Trade Association (FSTA) data for its analysis. The association estimates that 18 percent of adults in the United States play fantasy sports and that the average player aged 18 and above spends \$502 combined on daily fantasy sports (\$318) and traditional fantasy sports (\$184) over a 12-month period. For purposes of this estimate, the OLS assumes that traditional and daily fantasy sports will both be subject to the provisions of this bill.

Given the United States Census Bureau estimate that about 6.9 million residents aged 18 and above lived in New Jersey on July 1, 2014, if 18 percent thereof play fantasy sports, then about 1.25 million New Jersey residents participate in fantasy sports.

If each New Jersey player spends the FSTA-reported \$502 national average on fantasy sports, then New Jersey players cumulatively spend \$625.8 million on fantasy sports.

The bill applies the 10.5 percent tax rate to a fantasy sports operator's gross revenue, or a permit holder's total fantasy sports activity receipts less total prize payouts multiplied by the percentage of total entry fees collected from New Jersey resident players divided by total entry fees collected from all players.

According to news reports, fantasy sports operators collect a "rake" of about 10 percent of entry fees with specific rates varying by activities. If operators receive 10 percent of the estimated \$625.8 million in annual fantasy sports expenditures of New Jersey residents as taxable gross revenue, then about \$62.6 million will become taxable. At the 10.5 percent tax rate annual State revenue collections will therefore approximate \$6.6 million.

FE to SS for S1927

4

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

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Trenton, NJ - Governor Chris Christie today announced that he has taken action on the following pending legislation:

BILL SIGNING:

ACS for A-3532/SS for S-1927 (Mazzeo, Caputo, Burzichelli, Moriarty/Whelan, Stack) - Provides for regulation of fantasy sports activities in New Jersey

Press Contact:
Brian Murray
609-777-2600



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Office of the Governor
PO Box 001
Trenton, NJ 08625
609-292-6000