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WHAT'S HIDDEN IN EXPANDED GAMBLING LEGISLATION

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INTRODUCTION

WHEN MARYLAND VOTERS VISIT THE POLLS THIS NOVEMBER, they will vote on much more than our nation's next president. This year's ballot contains an unprecedented seven ballot questions – allowing residents the most direct influence over state-level decisions in 30 years. One of the largest and most controversial issues is gambling expansion, only four years after Maryland first legalized gambling to raise money for public education and other under-funded capital projects.

Initially, Maryland legalized the construction of five casinos that would contain a total of no more than 15,000 slot machines; table games such as black-jack, craps, and roulette would remain illegal. And although only three casino facilities are currently operational at this writing, the Maryland legislature is already considering whether to add a sixth facility in Prince George's County, increase the maximum number of allowable slot machines to 16,500, and legalize table games at all six facilities.

This represents a major departure from the state's initial strategy regarding gambling. Whereas before it was clear we legalized slots gambling expressly to raise money for a few specific causes, now Maryland residents must wonder if we are trying to keep up with neighboring Delaware, Pennsylvania, and West Virginia. Near our borders, they all have casinos that extract revenue from Maryland taxpayers. Could the expansion of gambling in Maryland simply be another part of this competition?¹

BALLOT QUESTION 7

At any rate, Maryland voters are going to be asked to make the final decision on the proposed expansion of gambling. The language of Ballot Question 7 is as follows:

Gaming Expansion Referendum

Do you favor the expansion of commercial gaming in the State of Maryland for the primary purpose of raising revenue for education to authorize video lottery operation licensees to operate "table games" as defined by law; to increase from 15,000 to 16,500 the maximum number of video lottery terminals that may be operated in the State; and to increase from 5 to 6 the maximum number of video lottery operation licenses that may be awarded in the

State and allow a video lottery facility to operate in Prince George's County?

- *For the Additional Forms and Expansion of Commercial Gaming*
- *Against the Additional Forms and Expansion of Commercial Gaming*²

Voting for or against Question 7 is actually a vote for or against Section 2 of Senate Bill 1.³ Aside from the legalization of table games, the addition of 1,500 slot machines, and a new casino facility in Prince George's County, all contained in Section 2, SB1 contains 20 additional sections that alter existing gaming laws regardless if Maryland voters approve. This paper examines the various other items from Section 2 that voters

will unwittingly support or oppose, as well as those items beyond our control.

SECTION 2

The two largest changes to existing gaming law in Maryland being considered are the addition of a sixth casino with 3,000 slot machines in Prince George's County⁴ and the legalization of table games.⁵ Included in the language of Ballot Question 7 is an increase in the maximum number of slot machines,⁶ a change that is not technically necessary. As Joseph V. Kennedy, Ph.D., J.D. notes in *An Economic Analysis of the Proposed Expansion of Gaming in Maryland*:

It is not clear why additional VLTs are needed since when all five original casinos are operating at their licensed capacity, they will only be using 11,300 VLTs or 3,700 less than the ceiling. The referendum states that the Prince George's casino will have 3,000 VLTs. The likely answer is that the legislature wants to retain the power to increase gaming activity without going back to the voters.⁷

That is not the only thing our legislators are trying to sneak past voters in Section 2. Included in the bill but not on the ballot question is a provision that the tax rate for table games would be set at 20 percent⁸ (our current tax rate for slot machine revenue is 67 percent), as well as a clause that would allow casinos to stay open 24 hours a day.⁹ One can understand why the general public is not asked to set specific tax rates for businesses, but community members should be empowered to vote on switching to a Las Vegas-style “Go all night” approach with our existing casinos.

On the other hand, Maryland is also levying a new fee on casinos with Section 2. Casino operators will be charged up to \$425 per slot machine per year (and \$500 per table game), which will go into the Problem Gambling Fund.¹⁰ The logic seems fuzzy here and is almost an outright admission that we are opening doors to a social ill that should be kept at bay.

Another provision of Section 2 that goes unmentioned is the potential decrease in tax rates for other Maryland casinos.¹¹ This seems almost inevitable. We already expect casino operators to run on very slim margins – they get to keep only 33 percent of the money pumped into their slot machines. With the inevitable loss of business that will come from the increase in competition, it is understandable they might be given a concession. This begs the question: Is building a sixth casino a good idea? Will it really increase overall revenues for Maryland, or will we simply have one more casino and statewide table games?¹²

THE REST OF THE BILL

The other 20 sections of Senate Bill 1 go into effect even if Section 2 does not. These include a number of changes to existing gaming law, some of which seem perfectly understandable and necessary (creating a Joint Committee on Gaming Oversight,¹³ for example) and some of which are

quite surprising (requiring that casinos give hiring preference to applicants living within ten miles of the casino¹⁴).

In the “perfectly understandable and necessary” category, we find a new law that would allow the director of the State Lottery and Gaming Control Agency to issue gaming licenses to veterans’ organizations as a fund-raising tool.¹⁵ The fact that this law had to wait four years after we initially legalized gambling is baffling. Were we worried that casino owners would lose business if every local veterans’ meeting hall had a miniature casino? Perhaps so, because the law only allows for a maximum of five machines in any location, and does not extend to the counties of Caroline, Cecil, Dorchester, Kent, Montgomery, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester.

In another course correction from our flawed initial legislation, SB1 includes the possibility (but not the certainty, unfortunately) of shifting ownership of slot machines away from the state and onto the casino operators.¹⁶ Casinos in Allegany and Worcester counties may apply for ownership of slot machines immediately, and in Anne Arundel and Cecil counties ownership may be transferred after March 31, 2015. The savings will be invested in the Education Trust Fund. If we know already that this will result in savings, why did the state purchase the machines in the first place?

On the flip side, this ownership transfer comes with a price. To get casino operators to agree to assume the responsibility of owning or leasing slot machines, the state is prepared to cut their taxes to 57 percent. This tax cut is claimed to result in a net savings, as the state was paying the equivalent of 11 percent of all gambling revenues received to lease the machines.¹⁷ One should always be wary of government revenue and expense projections, and might also wonder why casino

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operators should be able to obtain the machines for less. Where did the government go wrong when negotiating their contracts?

Finally, Senate Bill 1 establishes a multitude of new and refined guidelines for the oversight of campaign finances from gambling interests.¹⁸ Since casinos have recently spent over \$20 million to influence the public on Question 7 (more than was spent by both candidates in Maryland’s last gubernatorial election), this seems like a good idea. Clearly, some organizations have some very deep pockets.

Moving away from the sane and sensible, we find plenty more material for discussion in Senate Bill 1. First is the stipulation that casino operators in Rocky Gap build additional meeting space within 36 months of building their casino.¹⁹ The state of Maryland divested itself of Rocky Gap after a decade of losing money on the space, yet here the state demands

that the casino operators maintain the same ridiculous levels of excess capacity. Hopefully our legislators can show restraint when it comes time to fund what will surely be a money-losing investment opportunity.

The Senate bill also requires Prince George's County to spend at least \$1 million annually on public safety in the five miles around Rosecroft Raceway.²⁰ This requirement speaks volumes about the negative externalities that accompany legalized gambling. During the Special Session, former Montana lawmaker Ted Neuman cautioned Maryland lawmakers that his state suffered after legalizing gambling, saying it "took money from the people who weren't making a lot of money

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and put it in the pocket of the gaming industry and caused a lot of local industries to be hurt because there was no disposable income."²¹

While Prince George's County will be constrained in how it spends its gambling revenues, the owners of Ocean Downs Casino in Worcester County are subject to a puzzling string of regulations. They are not allowed to build a hotel, conference/convention center, amusement park, arcade, or miniature golf course within 10 miles of their casino – nor are they allowed to host live music, dancing, or other performances on location.²² They will, however, be allowed to put on fireworks displays and have "a single piano played by an individual" (no heart-and-soul duets at Ocean Downs). These types of specific and unnecessary laws sound unbelievable until you read them yourself.

As for the statewide disbursement of gambling revenues, SB1 contains a vast quantity of modifications to the initial arrangement from 2008.²³ Our legislators have, however, generously provided 1 percent of gaming revenues for the Racetrack Facility Renewal Account – up to \$20 million annually.²⁴ After all the money (\$13 million, as of this writing) that Penn National Gaming, owner of Rosecroft Raceway, has spent to influence voters against Question 7,²⁵ it seems clear they do not need any subsidies.

Senate Bill 1 also states that 82 percent of revenues raised by legalized gambling shall be used in the counties in which

they are raised.²⁶ That is great news for those counties that will have casinos, but it leaves the other 18 counties in Maryland out in the cold. Certainly our legislators do not expect these other counties to sit back and watch their budgets shrink while a few lucky counties with casinos get extra money. How long will it be before they begin to demand casinos in their counties as well?

CONCLUSION

A 70-page Senate Bill like SB1 includes a veritable multitude of other laws, many of them too small and too specific to truly matter to the average voter. Some are meant to protect us from ourselves (casino operators are not allowed to have slot machines that accept credit or debit cards²⁷) and others are apparently to prepare Maryland for a long and fruitful partnership with casinos (casino owners are supposed to partner with local schools to offer job training programs in gaming²⁸). Not surprisingly, the majority of these issues did not make it onto the ballot. There is clearly much more to this issue than meets the eye—and we are only beginning to see the consequences of legalized gambling in our state.

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1 For a more detailed discussion of Maryland's competition with Delaware, Pennsylvania, and West Virginia through legalized gambling, see the section "The Role of Gaming in Maryland" in *An Economic Analysis of the Proposed Expansion of Gaming in Maryland*, Joseph V. Kennedy, Ph.D., J.D.
 2 See "2012 General Election Ballot Question Language" at http://www.elections.state.md.us/elections/2012/ballot_question_language.html for the other questions.
 3 See "Senate Bill 1" at <http://mlis.state.md.us/2012s2/bills/sb/sb0001e.pdf> for the full text of the bill.
 4 *Ibid.*, p. 53, line 5.
 5 *Ibid.*, p. 40, line 25.
 6 *Ibid.*, p. 44, line 16.
 7 See *An Economic Analysis of the Proposed Expansion of Gaming in Maryland*, p. 4.
 8 See SB1, p. 51, line 4.
 9 *Ibid.*, p. 47, line 33.
 10 *Ibid.*, p. 51, line 20.
 11 *Ibid.*, p. 52, line 20.
 12 Joseph V. Kennedy, Ph.D., J.D. gives excellent answers to these questions in *An Economic Analysis of the Proposed Expansion of Gaming in Maryland*.
 13 See SB1, p. 2, line 8.
 14 *Ibid.*, p. 20, line 25.
 15 *Ibid.*, p. 14, line 9.
 16 *Ibid.*, p. 22, line 1.
 17 See page 8 of *An Economic Analysis of the Proposed Expansion of Gaming in Maryland*.
 18 See SB1, p. 65, line 1.
 19 *Ibid.*, p. 21, line 22.
 20 *Ibid.*, p. 28, line 18.
 21 See Len Lazarick, "Gambling bill slows to freight-train pace in House, but still moving," at <http://marylandreporter.com/2012/08/13/gambling-bill-slows-to-freight-train-pace-in-house-but-still-moving/>.
 22 See SB1, p. 30, line 10.
 23 *Ibid.*, p. 56, line 11.
 24 *Ibid.*, line 29.
 25 See Rachael Pacella, "Casinos spend \$26.7 million on both sides of Question 7," at <http://www.baltimoresun.com/explore/howard/publications/laurel-leader/ph-ll-casino-money-20121003.0,7631811.story>.
 26 See SB1, p. 28, line 1.
 27 *Ibid.*, p. 23, line 5.
 28 *Ibid.*, p. 68, line 20.

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