

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

House Bill 30 (Delegate Smigiel)  
Ways and Means

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**Gaming - Video Lottery Terminals - Repeal of Constitutional Amendment -  
Changes to Statutory Provisions**

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This proposed constitutional amendment repeals constitutional provisions authorizing video lottery terminal (VLT) gambling. The proposed amendment also removes the restriction that the General Assembly may only authorize additional forms or expansion of gaming if approved through a referendum by a majority of the voters in a general election. The bill provides for certain VLT constitutional provisions in the State Government Article.

Other than the constitutional amendment, the bill's statutory provisions take effect July 1, 2013.

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**Fiscal Summary**

**State Effect:** If approved by the General Assembly and the voters, deleting the requirement for voter approval of gaming expansion allows any future expansion to be implemented faster and may result in additional State revenues sooner.

**Local Effect:** If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2014 general election. It is not expected to result in additional costs for local election boards.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The proposed constitutional amendment repeals Article XIX – Video Lottery Terminals of the Maryland Constitution. The bill transfers certain provisions contained in the Constitution to Subtitle 9-1A of the State Government Article (the VLT law). These provisions are:

- a statement that the primary purpose of the operation of video lottery terminals is to raise revenue for specified education purposes; and
- a requirement that video lottery facilities comply with any applicable planning and zoning laws of a local jurisdiction.

If the proposed constitutional amendment is approved, it will eliminate the restriction that the General Assembly may only authorize additional forms or expansion of commercial gaming if approval is granted through a referendum, as authorized by an act of the General Assembly and approved in a general election by a majority of qualified voters in the State.

**Current Law:** The primary purpose of issuing video lottery operation licenses is to raise revenue for (1) public school K-12 education; (2) public school construction and public school capital improvements; (3) construction of capital projects at community colleges and public senior higher education institutions; and (4) expansion of public early childhood education. VLT facilities must comply with any applicable planning and zoning laws of a local jurisdiction.

The VLT law prohibits any additional forms or expansion of commercial gaming other than as expressly provided in Subtitle 9-1A of the State Government Article. The prohibition does not apply to authorized types of gambling, including State lotteries, wagering on horse racing, and any gaming conducted under Title 12 or Title 13 of the Criminal Law Article.

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

**State Fiscal Effect:** The proposed constitutional amendment repeals Article XIX – Video Lottery Terminals of the Maryland Constitution and will repeal the restriction that the General Assembly may only authorize additional forms or expansion of gaming if approved through a referendum by a majority of the voters in a general election. To the extent the General Assembly passes legislation authorizing additional forms of commercial gambling or expands VLTs or table games, these gambling activities will commence earlier. Accordingly, State revenues may be accelerated to the extent the legislation imposes taxes on the activities.

**Local Effect:** The Maryland Constitution requires that proposed amendments to the constitution be publicized either (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2014 general election in newspapers or on specimen ballots.

To the extent the General Assembly expands commercial gaming, local impact aid for affected counties may be accelerated to the extent local aid is provided in the legislation.

**Additional Comments:** The bill was pre-filed and does not reflect current law. Legislation approved in the 2012 second special session and by voters in November 2012 increased the number of video lottery operation licenses allowed to six, increased the number of VLTs allowed in the State to 16,500, and authorized table games in VLT facilities.

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### Additional Information

**Prior Introductions:** HB 384 of 2011 received an unfavorable report from the House Ways and Means Committee. Its cross file, SB 633 of 2011, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Allegany, Anne Arundel, Cecil, Prince George's, and Worcester counties; Baltimore City; Comptroller's Office; Maryland State Lottery and Gaming Control Agency; Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2013  
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## Appendix – Maryland Gaming

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The State of Maryland has authorized six video lottery operation licenses in Baltimore City and Allegany, Anne Arundel, Cecil, Prince George's, and Worcester counties with a maximum number of 16,500 video lottery terminals (VLTs) allotted in the State. Licensees are also authorized to have table games with approval of the State Lottery and Gaming Control Commission.

### *VLT Law*

VLT gambling in Maryland was authorized by Chapter 4 (SB 3) and Chapter 5 (HB 4) of the 2007 special session. Chapter 5 was a constitutional amendment approved by the voters at the November 2008 general election that also authorized the expansion of gambling subject to specified restrictions. After November 15, 2008, the General Assembly may only authorize additional forms or expansion of gaming if approved through a referendum by a majority of voters in a general election. Chapter 4, which was contingent on ratification of Chapter 5, established the operational and regulatory framework for the VLT program. The Video Lottery Facility Location Commission (Location Commission) was established in the law to solicit and evaluate proposals for, and award, video lottery operation licenses.

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

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

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

### *VLT Implementation*

The first video lottery operation licenses were awarded by the Location Commission in fall 2009. Penn Cecil, in Cecil County, opened in September 2010 with 1,500 VLTs, and Ocean Downs, in Worcester County, opened in January 2011 and is currently operating 800 VLTs. Power Plant Entertainment (PPE) Casino Resorts, LLC operates a 4,750 VLT facility adjacent to Arundel Mills Mall in Anne Arundel County that opened on June 6, 2012.

On April 26, 2012, Evitts Resort, LLC (Evitts) was awarded a video lottery operation license to own and operate a video lottery facility adjacent to the existing lodge at the Rocky Gap Lodge and Resort, contingent on a number of actions by Evitts and others. However, Evitts was subsequently granted approval from the Location Commission to instead design, build, and operate a facility with 500 VLTs in the existing lodge conference and meeting space, assuming certain contingencies are met. The facility is expected to open in mid-2013.

On July 31, 2012, the Location Commission awarded a video lottery operation license to CBAC Gaming, LLC for a facility with 3,750 VLTs in Baltimore City. The facility is expected to open in mid-2014.

On January 31, 2013, the Location Commission approved a Request for Proposals for the video lottery operation license in Prince George's County, with proposals due in May 2013.

### *Distribution of VLT Proceeds*

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

- Business Investment – 1.5% to a small, minority, and woman-owned business investment account;
- Lottery (Administration) – 2% to the State lottery for administrative costs, with other costs provided for in the State budget;
- Local Government Impact Grants – 5.5% to local governments in which a video lottery facility is operating, 18% of which would go for 20 years (starting in fiscal 2012 and ending in fiscal 2032) to Baltimore City through the Pimlico Community Development Authority and to Prince George's County for the community surrounding Rosecroft (\$1 million annually), except that the 18% dedication does not apply to Allegany, Cecil, and Worcester county facilities upon issuance of the Baltimore City license (described further below);

- Purse Dedication Account (PDA) – 7% to a PDA to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually;
- Racetrack Facility Renewal Account (RFRA) – 1.75% (except for the Allegany County facility) beginning October 1, 2012 (previously 2.5%), for a 16-year period to the RFRA, not to exceed \$20 million annually, until the VLT license for Baltimore City is issued, after which time the percentage is reduced to 1.0%;
- Licensee (Operator) – no more than 33% to video lottery operation licensees, except the Allegany (50% for the first 10 years) and Worcester (43%, effective July 1, 2013) licensees and as described below; and
- Education Trust Fund (ETF) – remainder to the ETF (49.25%-52.0%).

Beginning April 1, 2015, licensees are responsible for purchasing or leasing VLTs and the associated equipment and software instead of the State (except the Allegany and Worcester county facilities, which may request to purchase/lease machines), with compensation of 6% of VLT proceeds to the Baltimore City and Cecil County licensees and 8% to the Anne Arundel County licensee.

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

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

Chapter 1 specifies that, once a Baltimore City license is issued, of the revenues dedicated to local impact grants, 100% of the local impact grants from the proceeds of the video lottery facilities in Allegany, Cecil, and Worcester counties must be distributed to those jurisdictions. The bill also specifies that, once a Prince George’s County license is

issued, of the revenues dedicated to local impact grants, \$200,000 is distributed annually to Allegany and Worcester counties, \$130,000 is distributed to Cecil County, and \$70,000 is distributed to the Town of Perryville. The bill also extended the 18% distribution of local impact grants provided to Baltimore City and Prince George's County through fiscal 2032.

Beginning July 1, 2013, the licensee in Worcester County receives 43% of revenues generated at the facility, if the facility has less than 1,000 VLTs and the equivalent of 2.5% of the facility's proceeds are spent each year on capital improvements at the facility. Under previous law, the licensee share of 50% for the Allegany County VLT facility is reduced to 33% of proceeds after 10 years of operations. Chapter 1 specifies that the operator share for the Allegany County facility will be 50% after 1 year of operations and meeting a 0.5% annual capital investment requirement; after 10 years of operations, the operator share will be 43% if a 2.5% capital investment requirement is met.

#### *Ownership and Leasing of VLTs*

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

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

#### *Table Games*

Chapter 1 of the 2012 second special session requires SLGCC to allow the holder of a video lottery operation license to offer specified table games and requires SLGCC to regulate table game operations. Prior to the issuance of a Prince George's County video lottery operation license, 80% of table game revenues are distributed to licensees and 20% of table game revenues are distributed to ETF. Upon issuance of a Prince George's

County license, licensees continue to receive 80% of table game revenues, 15% is distributed to ETF, and 5% is distributed to local jurisdictions where a VLT facility is located. Proceeds distributed to Baltimore City must be used equally to fund school construction projects and for the maintenance, operation, and construction of recreational facilities.

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

Authorized table games are defined as:

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

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

#### *VLT and Table Game Revenues*

The estimated revenues from VLTs and table games in fiscal 2014 through 2018 are shown in **Exhibit 1**. In total, \$743.5 million in gross gaming revenues is projected in fiscal 2014, including \$340.3 million to be distributed to ETF.



**Exhibit 1**  
**Distribution of Estimated VLT and Table Game Revenues in Maryland –**  
**Current Law**  
**(\$ in Millions)**

	<b><u>FY 2014</u></b>	<b><u>FY 2015</u></b>	<b><u>FY 2016</u></b>	<b><u>FY 2017</u></b>	<b><u>FY 2018</u></b>
<b>VLTs</b>					
Education Trust Fund (ETF)	\$296.9	\$477.7	\$484.0	\$534.3	\$561.1
Lottery Operations	12.3	18.1	11.4	14.0	14.6
Purse Dedication Account	42.3	71.0	76.2	81.1	85.0
Racetrack Renewal Account	10.4	10.1	10.8	13.4	14.0
Local Impact Grants	33.4	56.0	60.1	74.4	78.0
Business Investment	9.1	15.3	16.4	20.3	21.3
Licensees	212.2	382.0	448.3	630.7	659.9
<b>Total VLTs</b>	<b>\$616.6</b>	<b>\$1,030.1</b>	<b>\$1,107.2</b>	<b>\$1,368.2</b>	<b>\$1,434.0</b>
<b>Table Games</b>					
Anne Arundel	\$108.4	\$123.0	\$127.4	\$107.1	\$107.7
Baltimore City	-	78.9	91.0	89.9	91.4
Cecil	11.5	11.5	11.5	11.5	11.5
Worcester	5.5	5.7	6.0	6.2	6.5
Allegany	1.5	1.9	2.2	2.3	2.4
Prince George's	-	-	-	102.7	115.6
<b>Total Table Games</b>	<b>\$126.9</b>	<b>\$221.1</b>	<b>\$238.1</b>	<b>\$319.8</b>	<b>\$335.1</b>
<b>Table Games</b>					
Education Trust Fund	\$25.4	\$44.2	\$47.6	\$48.0	\$50.3
Local Impact Grants	-	-	-	15.9	16.8
Licensee	101.5	176.8	190.5	255.9	268.1
<b>Total Table Games</b>	<b>\$126.9</b>	<b>\$221.1</b>	<b>\$238.1</b>	<b>\$319.8</b>	<b>\$335.1</b>
<b>Total VLT and Table Games</b>	<b>\$743.5</b>	<b>\$1,251.2</b>	<b>\$1,345.3</b>	<b>\$1,688.0</b>	<b>\$1,769.1</b>
<b>Total Education Trust Fund*</b>	<b>\$340.3</b>	<b>\$521.9</b>	<b>\$531.6</b>	<b>\$582.4</b>	<b>\$611.4</b>
<b>VLT Lease Savings to ETF</b>			<b>\$34.4</b>	<b>\$59.1</b>	<b>\$57.7</b>

\*Fiscal 2014 includes \$18 million in initial license fees for Prince George's license.

Source: Department of Legislative Services