

Fiscal Estimate Narratives

DFI 10/17/2019

LRB Number	19-4331/1	Introduction Number	SB-491	Estimate Type	Original
Description registration of fantasy contest operators, requiring the exercise of rule-making authority, and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

This bill creates a new statutory chapter regulating “fantasy contests.” Under the bill, a “fantasy contest” is any “fantasy or simulation game or contest in which one or more players compete against each other, and a winning outcome reflects the relative knowledge and skill of fantasy contest players and is determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.” Operators of fantasy contests must apply for registration with the Department of Financial Institutions, submit required filings (including annual third-party audits) to the Department, follow other statutory requirements and rules promulgated by the Department, and pay annual fees.

As currently drafted, the bill would require the Department to undertake an individualized evaluation of each contest by each applicant to determine whether it meets the three main elements of a “fantasy contest”: (1) “players compet[ing] against each other,” where (2) “a winning outcome reflects the relative knowledge and skill” of the players, and (3) “is determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.” While the first and third elements are readily determinable under most circumstances, the second element requires the application of inherently subjective concepts to each individual fantasy contest. This is a fact-intensive inquiry that can lead to inconsistent results. See Brian C. Miller, Not Just a Fantasy: The Real Benefits of Daily Fantasy Sports Legislation for Wisconsin, 2017 Wis. L. Rev. 1273, 1284 (“[H]ow exactly is a trier of fact to determine whether skill or chance accounts for more than fifty percent of a game’s outcome in mixed games like [daily fantasy sports]? Such a murky test generates inconsistent results, and unsurprisingly, attorney[s] general[] in states with nearly identical Dominant Factor Test statutes have come out differently when applying such statutes to [daily fantasy sports].”).

Therefore, the revenues under the bill may range from substantial to negligible, depending on how the Department construes the requirement that a “winning outcome reflects the relative knowledge and skill of fantasy contest players” at a given point in time for a given set of games.

The costs of implementation are more capable of estimation. Implementation of the bill would require two types of expenditures by the Department: (1) one-time information technology costs for creating a system for online registration and filings, and (2) ongoing costs associated with additional staff to administer the new statutory chapter.

One-time IT expenses are for the labor required for the creation of an online registration and management system, including forms and integration with existing systems. The Department estimates that this work will require 575 hours of IT staff time (at an average rate of \$75 per hour) and 72 hours of support staff time (at an average rate of \$30 per hour), for a total estimated one-time cost of \$45,285.

Ongoing administration of the program will require:

- (1) fact-intensive analysis of each proposed game to determine whether it is a “fantasy contest” within the meaning of the statute;
- (2) review of audited financial statements to assess appropriate fees;
- (3) ongoing administration of registrations, renewals and/or requests by existing contest operators to operate new games;
- (4) drafting and revising rules to administer the chapter;
- (5) addressing complaints and allegations raised against operators;
- (6) investigating and enforcing statutory provisions and rules, including monetary penalties, which may require out-of-state travel and the retention of counsel licensed to appear in the courts of an operator’s home state;

- (7) when warranted, the retention of out-of-state auditors at the Department's expense pursuant to the proposed s. 570.20(2)(b);
- (8) investigating allegations of operators providing unregistered fantasy games, and requiring violators to register;
- (9) review of marketing and other disclosures that may be required by administrative rules; and
- (10) general administration of the program.

The Department estimates that these tasks would require the creation of three additional FTE positions – two with auditor classifications (each with an estimated annual salary of \$48,630.40 and fringe of \$18,216.95), and one with an operations program assistant classification (with an estimated annual salary of \$33,384 and annual fringe of \$12,505.65). The Department further estimates travel and training costs of \$20,000 per year for each auditor and \$5,000 per year for the program assistant for purposes of attending industry or regulator conferences and other educational programs, as well as travel for regulatory examinations and enforcement given the national scope of the industry. Finally, the Department roughly estimates that the program may require \$45,000 per year for as-needed supplies and services, including the cost of third-party audits pursuant to the proposed s. 570.20 (2)(b) and the possible need to retain out-of-state counsel for the collection of judgments and fees owed by delinquent out-of-state operators. Combining these numbers, the Department estimates a total annual cost of \$269,584.35 to administer this proposed statutory chapter.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2019 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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Description registration of fantasy contest operators, requiring the exercise of rule-making authority, and providing a penalty			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): \$45,285.00			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$179,584		\$
(FTE Position Changes)	(3.0 FTE)		
State Operations - Other Costs	90,000		
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category	\$269,584		\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS ((PRO))	269,584		
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
	Increased Rev	Decreased Rev	
GPR Taxes	\$	\$	
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues	\$	\$	
NET ANNUALIZED FISCAL IMPACT			
	<u>State</u>	<u>Local</u>	
NET CHANGE IN COSTS	\$269,584	\$	
NET CHANGE IN REVENUE	\$	\$	
Agency/Prepared By		Authorized Signature	
DFI/ Kortney Anderson (608) 261-9559		Kortney Anderson (608) 261-9559	
		Date	
		10/17/2019	