

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2023 Regular Session**

Part I: Measure Information

Bill Request #: 812

Bill #: HB 551 GA

Document ID #: 6139

Bill Subject/Title: AN ACT relating to wagering and making an appropriation therefor.

Sponsor: Representative Michael Meredith

Unit of Government: City County Urban-County
Unified Local
 Charter County Consolidated Local Government

Office(s) Impacted: Fiscal courts, law enforcement, jails, health departments.

Requirement: Mandatory Optional

Effect on
Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

HB 551 GA would authorize sports wagering.

Section 1 establishes the sports wagering administration fund to receive all funds under the bill and pay program expenses incurred by the PPC. Additionally, 2.5% of the funds deposited in the sports wagering administration fund be deposited in the Kentucky problem gambling assistance account. The remainder would be deposited in the Kentucky permanent pension fund established in KRS 42.205.

Section 2 establishes the Kentucky problem gambling assistance account. Detail is provided regarding administering the fund and reports required.

Section 3 adds several definitions including:

- “**sports wagering**” to mean wagering on sporting events or portions thereof, or on individual performance statistics in a sporting event(s) in conformance with federal law and as authorized by the racing commission; and

- **“sports wagering service provider”** to mean a person authorized to conduct or manage sports wagering through an agreement with a track and provide these services at a licensed facility for sports wagering, simulcast facility, or through a website or mobile interface.

Sections 4-10 establishes a system of sports wagering, under the jurisdiction of the Kentucky Horse Racing Commission, that could only be offered by a licensed track or professional sports venue under the Commission’s jurisdiction, or by an online application available only to people who have registered at a track or professional sports venue, with certain other restrictions. Provides that a simulcast facility may offer sports wagering through an agreement with a track by using that track’s service providers. A license to offer sports wagering would be required, with an initial licensing fee of \$500,000 and annual renewal fee of \$50,000, payable to the Commission and deposited to the wagering administration fund.

Section 11 provides for a service provider license issued at the discretion of the racing commission for which there will be a \$50,000 nonrefundable application fee and an annual renewal fee of \$10,000. A temporary license may be issued for an initial fee of \$50,000 valid for up to one year. These fees are also deposited into the wagering administration fund.

Section 12 requires all employees of a sports wagering facility capable of affecting the outcome of sports wagering shall apply to the commission for an occupational license and submit to fingerprints and a background check. This occupational license is subject to suspension or revocation by the racing commission.

Section 14 provides a number of definitions including:

- *“sporting event”* to mean an event at which two or more people participate in athletic contests or an event approved by the racing commission, but does not include horse racing or amateur youth sports or athletic events in which most of the participants are under age of 18, and
- *“taxpayer”* to mean any person liable for tax.

Section 14 also imposes a tax rate on sports wagers of 9.75% on the adjusted gross revenue from wagers placed at the licensed track or 14.25% on the adjusted gross revenue received from off-site technology.

Section 15 provides that a person shall not place a sports wager on a game or event in which the person is a participant. A person shall be guilty of tampering when the person interacts with a participant to alter the outcome or alter actions within the sporting event upon which people might place sports wagers.

Section 16 provides that an employee of any track shall not wager with a sport wagering licensee or place online wagers with a service provider licensee that has an agreement with that sport wagering licensee. Conversely, an employee of a service provider licensee

offering sports wagering through a track shall not wager with that track or wager online with a service provider that has an agreement with that track.

Section 17 provides that a violation of the Section 15 prohibition would be a Class A misdemeanor, and tampering with the outcome of a sporting event would be a Class C felony.

Section 19 exempts the crime of loitering from application to persons engaged in licensed sports wagering.

Section 23 exempts sports wagering from the provisions of Chapter 528.

HB 551 GA would have an indeterminate to moderate positive fiscal impact in those communities with tracks or professional sports venues having a license to offer sports wagering.

There is insufficient data currently to estimate the fiscal impact of increased wagering at race tracks because of its possible negative fiscal impact on historical horse racing.

Occupational License Fees and Taxes

If sports wagering results in increased business activity, those local governments authorized to impose a license or occupational tax on businesses within their jurisdiction and that have a track or professional sports venue may see an increase in collections. Cities and counties may impose a license or occupational license fee of 1%-1.25% (counties) depending on the county population, or up to 1.25% (cities) depending on city classification.

As of 2021, 157 cities, 47 counties, Louisville/Jefferson County Metro Government, and Lexington Fayette Urban-County Government impose an occupational tax or fee. The average tax on payroll is 1.23%. A first-class city may impose a license fee of up to 1.25% on wages and net profits; home rule cities may levy franchise and license fees with no maximum rate specified. If a venue employed five additional people at an average salary of \$42,000, the average rate of 1.23% would generate approximately \$2,600 per year. There is too little data to quantify net profits or gross receipts in the first two years.

Retirement Systems

Most cities and counties participate in the County Employees Retirement System (CERS). Distributions to the permanent pension fund established by KRS 42.205, would be used to support unfunded liabilities of the Commonwealth's pension funds. If any distributions were made to KPPA and subsequently applied to CERS, there could be a positive fiscal impact on any unfunded actuarial liability.

Local Jails

The bill would have an indeterminate to minimal fiscal impact as a result of new criminal penalties. The bill creates a new Class A misdemeanor and a new Class C felony. A person convicted of a Class A misdemeanor may be incarcerated for up to 12 months.

Misdemeanants are housed in one of Kentucky's 74 full-service jails or three life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on an average cost to incarcerate of \$40.11 per day. While most misdemeanor defendants are granted bail, those who do not will also cost local jails an average cost to incarcerate of \$40.11 per day.

When a court denies bail to a Class C felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 74 full-service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an average cost to incarcerate of \$40.11, which includes the \$35.34 per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 24 months or less to their minimum expiration date or parole eligibility date. The Department of Corrections pays local jails \$35.34 per day to house these Class C felons. The per diem may be less than, equal to, or greater than the actual housing cost.

There could be fewer prosecutions related to loitering and gambling as a result of the exemptions in Section 19.

Part III: Differences to Local Government Mandate Statement from Prior Versions

HB 551 GA keeps the major provisions of HB 551 HCS 1 inclusive of HFA 5:

- Establishes the Kentucky problem gambling assistance account and provides that 2.5% of the funds deposited in the sports wagering administration fund be deposited in the Kentucky problem gambling assistance account.
- Adds the definition of sporting event and taxpayer.
- Deletes (original) Sections 19 thru 22 of HCS 1.
- Exempts sports wagering from KRS Chapter 528.

HB 551 HCS 1 keeps the major provisions of HB 551 as introduced with the following changes:

- Deletes the definition of "gross revenue";
- Expands the definition of "sports wagering service provider" to include the provision of these services at a licensed facility for sports wagering or simulcast facility;
- Removes the requirement of having a patron to only be able to register in person at a license facility prior to placing a wager online;
- Provides that a simulcast facility may offer sports wagering through an agreement with a track by using that track's service providers;
- Provides that a sports wagering occupational license may be suspended or revoked by the racing commission.

Data Source(s): LRC Staff, Kentucky League of Cities, Kentucky Association of Counties; Kentucky Department of Corrections

Preparer: WB (RB) **Reviewer:** KHC **Date:** 3/14/23