

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2400

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 11, 2020

The Senate Budget and Appropriations Committee reports favorably and with amendments Senate Bill No. 2400.

As amended, this bill provides for temporary modifications to the payment and use of certain casino gaming taxes and fees due to the COVID-19 Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020. This bill also amends current law concerning the use of promotional gaming credits by casino licensees and their deduction from gross revenues. The bill also appropriates \$100 million in federal funds to the EDA for small business assistance.

The bill allows for certain licensing and other fees imposed on casino licensees, that are deposited to the Casino Control Fund, to be deferred during the period the licensee's casino hotel facility remains closed due to the emergencies, and during the six-month period immediately following the date that the casinos are permitted to reopen after the emergency declarations. The amounts deferred would be required to be paid by each casino licensee in equal monthly installments over the 12-month period following the deferment period. However, the annual license fee of \$500 imposed on each slot machine, and that fee imposed on a pro-rata basis, would be entirely waived from July 1, 2020 through June 30, 2021, inclusive. The deferment or waiver would not apply to any fees imposed on a casino licensee or its Internet gaming affiliate for the issuance or renewal of any Internet gaming license or permit, or to any amounts required to be deposited in the Casino Control Fund from Internet wagering inactive or dormant accounts.

The bill requires any surplus funds held by the Division of Gaming Enforcement in the Casino Control Fund, or held by the division due to an overpayment of the investment alternative tax in the case of a downward adjustment of the casino licensee's audited gross revenues, to be returned to the casino licensee within five business days following the effective date of the bill, and then, for the six months following that effective date, within 30 days following the end of each fiscal quarter, to mitigate the impacts of the emergencies.

The bill also waives, for a period of 24 months beginning on the date that the casinos are permitted to reopen, the provisions of law

requiring the imposition of a minimum charge of \$3.00 and minimum fee of \$3.00 for any parking space in a casino parking garage. In addition, the bill waives certain hotel room fees related to casino gaming for the remainder of calendar year 2020. The fee of \$3 per day on each hotel room in a casino hotel facility that is occupied by a guest, and the fee of \$2 per day on each occupied room in a casino hotel and fee of \$1 per day fee on each occupied room in a non-casino hotel in Atlantic City, are waived for the remainder of calendar year 2020. The fees will again be due starting January 1, 2021. The bill allows the Casino Reinvestment Development Authority to use other funds in its possession to pay for the bonds and other obligations that are currently secured by the parking and hotel proceeds, notwithstanding that the agency's other funds are committed to other purposes.

This bill provides for a reduced tax liability on casino gross revenue tax and investment alternative tax obligations for brick-and-mortar casino properties reopening following their closure due to the COVID-19 emergency declarations. The reduced tax liability would be in effect during the 24-month period commencing on the date that the casinos are permitted to reopen after the declarations and ending on the last day of the 24th month thereafter. Under current law, casinos are required to pay an 8% tax on gross revenues, plus a 1.25% investment alternative tax for reinvestment by the Casino Reinvestment Development Authority, on the gross revenues generated from gaming at their brick-and-mortar casino properties. Under the bill, each casino's tax obligations would be reduced, on a monthly basis during that period, to be calculated subject to rounding, as follows:

(1) for each calendar month in which the gross revenues are less than 25 percent of the gross revenues for the same calendar month immediately prior to March 1, 2020, the gross revenues tax and investment alternative tax obligations are to be zero for each tax;

(2) for each calendar month in which the gross revenues are at least 25 percent and not more than 49 percent of the gross revenues for the same calendar month immediately prior to March 1, 2020, the gross revenues tax and investment alternative tax obligations are to be 25 percent of the full amounts that would normally be due for each tax;

(3) for each calendar month in which the gross revenues are at least 50 percent and not more than 74 percent of the gross revenues for the same calendar month immediately prior to March 1, 2020, the gross revenues tax and investment alternative tax obligations are to be 50 percent of the full amounts that would normally be due for each tax; and

(4) for each calendar month in which the gross revenues are at least 75 percent and not more than 99 percent of the gross revenues for the same calendar month immediately prior to March 1, 2020, the

gross revenues tax and investment alternative tax obligations are to be 75 percent of the full amounts that would normally be due for each tax.

The full tax obligations are due, under the bill, in each calendar month in which the gross revenues are 100% or more of the gross revenues for the same calendar month immediately prior to March 1, 2020.

To remain eligible to receive the tax liability reductions, the bill requires each casino licensee to submit to the State Treasurer and the Division of Gaming Enforcement, at the same time that the reduced tax payments are made, a report documenting that an amount equal to the entire dollar amount reduced, that was not subject to collection by the State, is being expended by the licensee to: (1) promptly re-hire and employ former employees and new applicants; (2) attract tourists, gaming, and hospitality patrons to visit and stay at the casino hotel property; (3) market and promote events that would draw visitors to the property or Atlantic City, such as entertainment and conventions; and (4) any other activity the State Treasurer or the division deem beneficial to the return of pre-emergency economic, gaming, and tourism levels to Atlantic City.

This bill amends current law to permit each casino licensee to take a deduction against gross revenues equal to the full amount of promotional gaming credits, including match play and table game coupons, that are issued by the licensee and redeemed its patrons. Currently, casinos are permitted to take such deductions only for the amount of promotional gaming credits redeemed in a tax year that exceed \$90,000,000. This bill also removes the division's ability to limit the negative fiscal impact of the promotional gaming credit deduction on the Casino Revenue Fund.

This bill directs the Casino Reinvestment Development Authority to commit any available funds in its general fund to undertaking a marketing campaign to assist in returning Atlantic City's tourism and gaming activities to their levels prior to the emergencies. Under the bill, the authority would include input from the casino industry in developing the marketing campaign, which would begin immediately upon the bill's effective date and continue through June 30, 2021. The bill is not to be interpreted to impair the distribution of any funds otherwise committed under the bill, statutorily obligated or pledged by the authority for other purposes, the payment of bonds issued by it or otherwise contractually obligated by the authority, or any bonds issued to refund those bonds.

This bill does not impact any casino licensee's tax liabilities on gross revenues realized from casino simulcasting, internet gaming, or sports wagering.

Separate from the casino-specific provisions, the bill makes a \$100 million appropriation to the EDA from a portion of those federal block grant funds allocated to the State from the federal "Coronavirus Relief Fund," established pursuant to the federal "Coronavirus Aid, Relief,

and Economic Security (CARES) Act,” Pub.L.116-136, for use by the EDA to provide financial support, such as loans or grants, to small businesses generally for the costs associated with business operation interruptions caused by any State-required closures due to the impacts of the COVID-19 pandemic.

COMMITTEE AMENDMENTS:

The committee amendments to the bill add the \$100 million appropriation to EDA described immediately above.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate decreases in State revenues, some temporary in nature and some permanent, and a shift in the timing of when certain revenues are received into future fiscal years. The OLS cannot quantify all aspects of the bill due to uncertainties surrounding when casino licensees will satisfy certain requirements set forth in the bill and when the Governor’s Executive Order No. 103 of 2020, which declared a Public Health Emergency and State of Emergency related to the COVID-19 pandemic, will conclude.

For the parts of the bill that the OLS can quantify, mostly related to slot machine, parking, hotel, and tourism fees, the OLS estimates that State revenues could potentially decline by as much as \$66.2 million through FY 2022 compared to pre-pandemic levels. Revenues will be further diminished by an indeterminate amount because of the bill’s provisions that provide a temporary alternative calculation for casino licensees’ tax liabilities and a permanent enhanced deduction for promotional gaming credits and coupons.

For the fees that are permitted to be deferred under the bill, each casino licensee would have to pay back the deferred amounts over a 12-month period. Thus, the bill will shift, at least in part, revenue that would have been generated from casino licenses and fees in FY 2020 to FY 2021 and potentially FY 2022 depending on the length of time that Executive Order No. 103 remains in effect.

The small business assistance section of the bill has no fiscal impact beyond the appropriation it provides.