

SESSION OF 2010

**SUPPLEMENTAL NOTE ON
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2180**

As Recommended by Senate Committee on
Federal and State Affairs

Brief*

Senate Sub. for SB 2180 would create the Kansas Agricultural Opportunity Act (KAOA) and amend the Kansas Expanded Lottery Act.

Kansas Opportunity Act

The bill would create KAOA to provide for the establishment of a framework for encouraging economic opportunity in rural Kansas through the expansion of horse and greyhound ownership, breeding and investment.

Under the bill, on December 1 the official breed agencies for horse and greyhounds breeds would make recommendations to the Kansas Racing and Gaming Commission for implementation of programs which would maximize the benefit to economic development in rural Kansas from purse supplements. The bill would require, on or before January 15, the breed registry agencies to submit reports to the Kansas Racing and Gaming Commission on the status of horses and greyhounds bred, owned, and domiciled in Kansas, and the estimated total purses paid by the Kansas parimutual racetrack facilities.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Kansas Expanded Lottery Act Amendments

Lottery Gaming Facility Investment in the Southeast Gaming Zone

The bill would require an investment of at least \$100 million in the Southeast Kansas Gaming Zone for infrastructure including ancillary lottery gaming facility operations. In addition, the bill would require a privilege fee of \$11 million in the Southeast Kansas Gaming Zone. Current law requires an infrastructure investment of \$225 million and a \$25 million privilege fee.

Electronic Gaming Machines at the Racetrack Gaming Facilities

The bill would prohibit more than 1,200 electronic gaming machines at each racetrack gaming facility.

The bill would delete the provision that until the lottery gaming facility contracts in all gaming zones becomes binding, the total number of electronic gaming machines placed at racetrack gaming facilities shall not exceed 2,200. In addition, the bill would delete the provision that allows privilege fees bids, of a minimum \$2,500 per electronic gaming machine, between the lottery gaming facility manager and the racetrack gaming facility management for the remaining gaming machines allocated to, but not placed, at the racetrack gaming facilities.

Distribution of Net Electronic Gaming Machine Income

The bill would distribute net electronic gaming machines income of not more than 58 percent of the income to the racetrack gaming facility manager (currently the percentage is 25).

The bill would delete the cap of a maximum of \$3,750 per electronic gaming machine be credited to the live-horse racing purse supplement fund and the greyhound racing purse supplement fund. Under current law, each fund receives 7 percent of the electronic gaming machine income and that amount would not change.

Under the bill, not less than 22 percent of the electronic gaming machine income would be credited to the Expanded Lottery Act Revenue Fund (ELARF)(currently the income credited is 40 percent).

The bill would delete the provision that allowed 15 percent of the electronic gaming machine income to be used for gaming expenses.

Certification Requirements

The bill would require certification requirements to include compliance with security, fitness background investigations and standards deemed necessary by Executive Director of the Lottery and the Kansas Racing and Gaming Commission for officers, directors, key employees, electronic gaming machine manufacturers, technology providers, computer system providers, and persons directly or indirectly owning 5 percent or more interest in a lottery gaming facility manager or racetrack gaming facility manager (current law for all entities owning 0.5 percent interest).

Under the bill, publicly traded companies subject to the jurisdiction of the U.S. Securities Exchange Commission or equivalent foreign securities law, would require certificate requirements for entities owning 5 percent or more interest in the facilities.

For institutional investors in publicly traded companies, the certification requirements the bill would provide waivers of the background investigation requirements.

Conditions for revocation, suspension, or non-renewal of a certification would apply to those entities that own a 5 percent interest in a lottery gaming facility manager or racetrack gaming facility manager.

Expanded Lottery Act Revenues Fund

The bill would add expenditures by the Kansas Public Employees Retirement Fund to the list of purposes for which the monies in the Fund can be used. Current law allows the monies to be used for reduction of state debt, state infrastructure improvements, and reduction of local *ad valorem* tax.

Background

The provisions of HB 2180 were deleted and the provisions of SB 401 were inserted.

Proponents of the original SB 401 included representatives of the Kansas Greyhound Association, National Greyhound Association, Crawford County Commission, Kansas Thoroughbred Association, Baxter Springs, Frontenac, Kansas Quarterhorse Racing Association, Pittsburg Area Chamber of Commerce, Eureka Downs, Kansas Quarter Horse Racing Association, and Ruffin Company. Neutral written testimony was submitted from the League of Kansas Municipalities.

Opponents of the original SB 401 included Senator Kelsey, representatives of Kansas Speedway, Penn National Gaming, The Builders' Association, Prairie Band Potawatomi Nation, Greater Kansas City Building and Construction Trades Council, Kansas City Kansas Area Chamber of Commerce, Sumner County Economic Development Commission, Laborers' Local Union #1290, Aristocrat Technologies, Stand Up for Kansas, and the Unified Government of Wyandotte County. Written testimony in opposition to the original bill was submitted from the Labor Management Council of Greater Kansas City,

Shawnee Chamber of Commerce, Kansas AFL-CIO, Lenexa Chamber of Commerce, Overland Park Chamber of Commerce, Board of County Commissioners of Sumner County, City of Mulvane, and the Olathe Chamber of Commerce.

The Senate Committee amended the bill by deleting the provisions of HB 2180 and inserted the provision of SB 401 said the bill with amendments that would include certification requirements for foreign securities law, restricting the percent paid to the racetrack gaming manager to not more than 58 percent and not less than 22 percent, and a maximum of 1,200 electronic gaming machines at each racetrack gaming facility.

The fiscal note on the original SB 401 said the bill would not require additional staffing or expenditures by the Racing and Gaming Commission, the Kansas Lottery, or any other state agency unless a contract with a racetrack gaming facility manager or lottery gaming facility manager is approved by the Kansas Lottery and a background investigation is approved by the Racing and Gaming Commission. The proposed changes to the distribution of gaming facility revenue could provide an incentive for the Woodlands Racetrack in Kansas City and Camptown Greyhound Park in Frontenac to negotiate a contract with the Kansas Lottery in order to reopen both of these facilities with electronic gaming machines. A contract could not be approved with the Wichita Greyhound Park, unless the voters of Sedgwick County first approve the operation of electronic gaming machines in a special election authorized by the bill. The expenses of conducting the special election would be the responsibility of Sedgwick County. The Sedgwick County Elections Commissioner indicates the cost of conducting a special election would be negligible if conducted at the same time as a regularly scheduled primary or general election; however, if the special election is scheduled apart from a regularly scheduled election, the Sedgwick County Elections Commissioner estimates the cost would be approximately \$124,000. The amended version of SB 401 that was placed into HB 2180 deleted the provision which required an election to be held in Sedgwick County.

The Kansas Lottery indicates that it would need to hire between two and three new employees for each new gaming facility that would open as a result of this bill. However, without knowing the size of the proposed facility and when the facility would open, the Lottery is unable to make a precise estimate of its gaming related expenses. The Kansas Lottery indicates that when it has negotiated contracts with gaming facility managers, it has required that all of its gaming related expenses be reimbursed by the manager. Direct gaming expenses are billed directly to the specific gaming facility manager and indirect expenses are prorated to all managers.

The Racing and Gaming Commission indicates it would need approximately \$2.5 million and 22.00 FTE positions for each parimutuel racetrack that reopens in FY 2011 to regulate both the racing and gaming activities. Start-up costs of approximately \$250,000 per facility also would be needed for expenses, such as background investigations, licensing equipment, software licenses, computer equipment, furniture and supplies, and other expenses that would be associated with reopening each facility. Funding for racing activities would come primarily from the State Racing Fund once racing resumes and revenue is generated. Until that time, there is adequate authority in current law for the Racing and Gaming Commission to bill the facility for all costs related to regulation until the State Racing Fund generates the necessary revenues to cover expenses. The facility also would be billed for all direct costs at the facility and would pay a portion of indirect costs for all general gaming regulatory operational expenses.

A reliable estimate of the revenue that might be generated as a result of SB 401 cannot be made without a detailed market study, which would include an estimate as to when each facility would be operational and the number of electronic gaming machines that would be placed at each facility. The bill would reduce the state's share under the current Act; however, no monies will be generated unless the electronic gaming machines are in operation. It should be noted the Governor's budget recommendation is to transfer all monies in the ELARF

to the State General Fund. Any fiscal effect associated with SB 401 is not reflected in *The FY 2011 Governor's Budget Report*.