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What it means: The LSA gaming law fix

By Colin McNickle

How will the Pennsylvania Legislature's Act 42 of 2017 affect how and what money local governments receive from respective gambling casinos? Let us count the ways.

It was in September 2016 that the state Supreme Court struck down Section 1403c of Act 71 of 2004 as unconstitutional, based on a challenge from the Mt. Airy Casino.

The Poconos resort claimed, and the high court agreed, that because casinos were taxed at different rates and, thus, paid varying amounts based on their gross terminal revenue, it was a violation of Article XIII, Section 1, of the Pennsylvania Constitution. That's the uniform taxation clause.

The high court granted two extensions, totaling 240 days, for the Legislature to make the law constitutionally compliant.

At issue were requirements that while casinos outside of Philadelphia had to pay 2 percent of their gross terminal revenue to the county in which they were situated, they had to pay 2 percent *or* \$10 million, whichever was greater, to the municipality where they were situated.

That money is known as the "local share assessment," or LSA.

As a scholar at the Allegheny Institute for Public Policy notes (*in Policy Brief Vol. 17, No. 47*), counties will continue to receive 2 percent of gross terminal revenue from their respective casinos. How that money is distributed varies, depending upon state classifications.

In general, a percentage point goes to the county for general purposes. The other percentage point goes to the state Department of Community & Economic Development and the Commonwealth Financing Authority to make grants.

It is the municipal LSA formula that, at the behest of the Supreme Court, has been modified in two respects by Act 42.

“First, the ‘2 percent or’ language ... is eliminated,” says Eric Montarti, a senior policy analyst at the Pittsburgh think tank. “Second, municipalities will receive a guaranteed \$10 million as (their) local assessment share.”

That share, however, will not come from gross terminal revenue as it previously had but rather from an annual 20 percent levy on the respective casino’s \$50 million slot machine license fee, which is a one-time payment at the time of issuance.

Additionally, Act 42 makes local share and other provisions for those forthcoming “mini” casinos authorized by the Legislature, for casinos in consolidated city-county government jurisdictions and for those crossing county lines, as well as future casinos.

So, what happens locally?

Allegheny County, being a Second Class county, will receive a local share assessment of 2 percent of the gross terminal revenue of the Rivers Casino, situated on Pittsburgh North Shore, part of a Second Class city.

Montarti notes there are no restrictions on how the money is used, none is diverted for commonwealth grant-making and the county continues to receive separate distributions from the state’s Gaming Economic Development and Tourism Fund for projects.

The City of Pittsburgh will receive that new \$10 million annual LSA payment, deposited into the city treasury. Additionally, the new law credits voluntary casino payments made in lieu of suspended payments as the legal and legislative processes played out to make the payments comport with the Constitution.

“There is plenty more to be analyzed in the complex and far-reaching new gaming law,” Montarti says. “But the LSA issue is settled, albeit well past the two deadlines set by the court.”

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