



## MEMORANDUM

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Senate Minority Office

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FROM: Scott A. Brodsky  
Principal Fiscal Analyst

DATE: December 3, 2021

SUBJECT: Fiscal Information Regarding Senate Bill NO. 4007.

You had requested fiscal information on Senate Bill No. 4007. In brief, we expect the bill will reduce the PILOT payment by \$55 million in CY 2022, and probably between \$30 million and \$65 million in subsequent years through 2026. New mandatory payments of \$5 million per year in CY 2024-2026 will partly offset this. There may also be some redistribution of IAT revenue, if those revenues exceed the CRDA and city's debt service requirements.

### Background

The bill amends and supplements the "Casino Property Tax Stabilization Act" (CPTSA) P.L.2016, c.5, (C.52:27BBBB-18 et seq.) which governs the casino gaming industry's financial obligations to the City of Atlantic City ("city"), Atlantic County ("county"), and the Atlantic City School District ("school district"). The CPTSA exempts casino gaming properties from the regular system of assessment used to determine the value of property for ad valorem taxation. Instead, casino gaming properties are required to fulfill their local government financial obligations by making annual PILOTs, the amount of which is based on casino gaming revenues. The PILOT is apportioned among casino gaming property owners by a statutory formula that accounts for GGR, the number of hotel rooms, and square feet of floor space at each casino gaming property.

Under the current PILOT formula, GGR includes the total amount of revenue raised from three types of casino gaming: traditional casino gaming that takes place inside the casinos, Internet casino gaming, and sports wagering. The amount of the annual PILOT is determined based on the whether total annual GGR falls within a certain range. Current law also requires the PILOT to increase by two percent annually if there is no upward adjustment to the base amount of the PILOT. An upward adjustment in the PILOT occurs if the GGR range changes from one year to the next. The bill makes several changes to the calculation and distribution of the PILOT made by casino gaming properties. First, the bill excludes revenues generated by Internet

gaming and Internet sports wagering from the calculation of GGR for calendar years 2021 through 2025. Second, the bill establishes new PILOT amounts that reflect the new method of calculating GGR:

The table below displays the current and proposed GGR ranges and the corresponding base PILOT amounts.

Current GGR Ranges & PILOT Amounts		New GGR Ranges & PILOT Amounts	
GGR Range (in billions)	Amount of PILOT (in millions)	GGR Range (in billions)	Amount of PILOT (in millions)
Less than \$1.8B	\$90M	Less than \$2.3B	\$100M
\$1.8B to \$2.2B	\$110M		
\$2.2B to \$2.6B	\$120M	\$2.3B to \$2.9B	\$110M
\$2.6B to \$3.0B	\$130M		
\$3.0B to \$3.4B	\$150M	Greater than \$2.9B	\$120M
\$3.4B to \$3.8B	\$165M		

Third, the bill sets the PILOT at \$110 million for calendar year 2022. Fourth, the bill provides for increases in the PILOT if there is no upward or downward adjustment in the total amount of GGR. Fifth, the bill places a limit on the net liability of individual casino gaming properties due to the elimination of the investment alternative tax credit after 2021. Sixth, the bill allows for changes to the PILOT as properties become subject to the CPTSA or no longer qualify as a casino gaming property. Seventh, the bill requires a specific portion of the PILOT to be paid to the county and the school district in calendar years 2022 through 2026 and provides for adjustments to the amounts paid to those entities based on changes in the amount of GGR.

Current law requires the owners of casino gaming properties to make a separate payment to the State, in decreasing amounts, from 2015 through 2023, with the final payment in 2023 being \$5 million. The bill extends these payments through 2026 at the rate of \$5 million per year.

Finally, the bill changes the allocation of investment alternative tax (IAT) revenues between the CRDA and the city, and the purposes for which those funds may be used, in calendar years 2022 through 2026. Current law allocates IAT receipts to the CRDA and to the city for the purpose of paying debt service on municipal bonds. The bill requires that any IAT revenues remaining after the allocation of proceeds to CRDA and municipal debt service payments are to be paid to the CRDA, the city, and the new “Clean and Safe Fund” and Infrastructure Fund” established by the bill, in proportions specified by the bill and subject to specified maximum amounts. Moneys deposited in the Clean and Safe Fund are to support capital public safety expenses and assorted municipal projects, such as beautification, lighting, and sidewalk repair. Infrastructure Fund proceeds may finance any work that may be undertaken as a local improvement pursuant to R.S.40:56-1 et seq. IAT revenues pledged for the payment of bonds issued by the CRDA, or any bonds issued to refund those bonds, or otherwise contractually obligated by the authority prior to the effective date the CPTSA are excluded from the reallocation.

**Fiscal Information**

Revisions to the PILOT Formula

The OLS estimates that enactment of the bill would result in a local revenue loss of \$55 million in calendar year 2022 from casino PILOT payments. According to monthly financial reports available through the Division of Gaming Enforcement in the Department of Law and Public Safety, total gross gaming revenue through October 2021 is \$3.496 billion. At the current rate, the OLS estimates that total gross gaming revenue for calendar year 2021 would be \$4.196 billion. The maximum amount of gross gaming revenue and PILOT amount contemplated under current law are \$3.8 billion and \$165 million, respectively. For purposes of this estimate, the OLS anticipates that if GGR is \$4.196 billion, casino gaming property owners would be required to pay the maximum PILOT amount of \$165 million under the current law. The bill sets the calendar year 2022 PILOT amount at \$110 million, resulting in a local revenue loss of \$55 million.

Jettisoning Internet casino gaming revenue and Internet sports wagering revenue will result in lower GGR levels and PILOT amounts. This, in turn, will cause local revenue losses in calendar years 2023 through 2026. The OLS does not forecast GGR, but notes that the decrease in the PILOT amount would likely fall in a range between \$30 million to \$65 million per year, depending on actual GGR collections as measured by the two methodologies. Although the bill requires the owners of casino gaming property to make payments to the city of \$5 million per year in calendar years 2024 through 2026, it is unlikely that these payments will wholly offset the municipal revenues loss resulting from application of the new PILOT formula.

Revisions to the PILOT Allocations for Affected Local Governments

The PILOT system has been in effect since calendar year 2017. Using local budget information, the OLS has calculated that on average, the city has received 54 percent of the annual PILOT allocation, the county has received 13 percent of the annual PILOT allocation, and the school district has received 34 percent of the PILOT allocation. However, the bill requires the county and the school district to receive the same PILOT allocations in calendar year 2022 as they received in calendar year 2021. This requirement means that the city will bear the largest revenue loss under the new PILOT formula. The table below shows the estimated calendar year 2022 PILOT to the city, county, and school district under current law, as provided by the bill, and the difference between the two amounts.

**Estimated PILOT Allocations Pursuant to Current Law & S4007**

Local Unit	Estimated CY 2022 PILOT Under Current Law	Estimated CY 2022 PILOT Under S4007	Difference
Atlantic City	\$88,486,935.86	\$46,651,000.00	(\$41,835,935.86)
Atlantic County	\$20,806,476.38	\$17,550,000.00	(\$3,256,476.38)
Atlantic City School District	\$55,706,587.76	\$45,799,000.00	(\$9,907,587.76)
Totals	\$165,000,000.00	\$110,000,000.00	(\$55,000,000.00)

The bill requires the PILOT allocation to the county and school district to increase by two percent annually. The bill requires the county's PILOT allocation to increase by \$1.350 million if there is an upward adjustment in calendar year 2023 or 2024 and by \$1.2 million if there is an upward adjustment in calendar year 2025 or 2026. The school district's PILOT allocation would increase by \$3.5 million if there is an upward adjustment in any calendar year from 2023 through 2026. The bill provides for the county and school district PILOT amounts to be reduced by the same amounts if there is a downward adjustment.

#### Allocation of Investment Alternative Tax Revenue

Current law allocates IAT receipts first to the payment of bonds issued by the CRDA or otherwise contractually obligated by the CRDA prior to the effective date of the bill, and second to the city for the purpose of paying municipal debt service. The bill provides that excess revenues be allocated to the CRDA, State, and city in specified proportions, up to maximum amounts for each recipient for each calendar year, with any excess revenue refunded to the casinos. The maximum amount allocated varies from \$13.5 million in 2022 to \$31.1 million in 2026, below recent years' revenue collections.

To the extent that there are IAT revenues in excess of amounts needed for debt service, the CRDA, State, and city may experience an increase in revenues. The CRDA will receive additional resources to support eligible community and economic development projects in Atlantic City and around the State. The city will experience an increase in dedicated and general municipal revenues. The OLS cannot determine the extent to which the receipt of additional IAT funds will offset any reductions in PILOT payments resulting from the new formula established by the bill.

The OLS notes that the bill requires the city to receive State approval to utilize Clean and Safe Fund and Infrastructure Fund proceeds for their authorized purposes. If Atlantic City is no longer deemed a municipality in need of stabilization and recovery pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et al.), then any moneys remaining in the funds would be distributed to the city, subject to a memorandum of understanding with the State Treasurer that they support purposes authorized by the bill.

I hope you find this information useful and responsive to your request. Please do not hesitate to contact me if you have any questions or require further assistance in this matter.