



## Legislative Fiscal Bureau

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May 21, 2003

Joint Committee on Finance

Paper #130

### *Tribal Gaming Revenue Allocations*

## **Base Budget Reductions (Administration -- Division of Gaming)**

[LFB 2003-05 Budget Summary: Page 44, #1]

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### **CURRENT LAW**

The Office of Indian Gaming is a unit in the Division of Gaming in the Department of Administration (DOA). The Office has base funding of \$1,434,600 PR with 14.0 PR positions.

### **GOVERNOR**

Delete \$189,300 PR and 2.0 PR positions annually from the general program operations appropriation for Indian gaming as a budget efficiency measure.

### **DISCUSSION POINTS**

1. The Office of Indian Gaming (OIG) has the following principal duties and responsibilities: (a) coordinating state regulation of Indian gaming; (b) serving as a gaming liaison between Indians, the general public and the state; (c) serving as a clearinghouse for information on Indian gaming; and (d) assisting the Governor in determining the types of gaming that may be conducted on Indian lands and in entering into Indian gaming compacts. The Office is authorized the following 14.0 PR positions:

<u>Position Classification</u>	<u>FTE</u>
Administrative Manager	1.25
Attorney	1.00
Auditor	4.00
Budget and Policy Analyst	0.25
Consumer Protection Investigator	3.00
Contracts Specialist	1.00
Executive Staff Assistant	0.25
Financial Program Supervisor	1.00
Informational Systems Technical Services	0.25
Program Assistant	1.00
Unclassified Administrator	<u>1.00</u>
Total	14.00

2. The deletion of 2.0 PR positions represents a 14% reduction to the number of authorized positions under the Office. The bill does not identify the positions that would be deleted. If the position reduction is approved, DOA would be required to identify the specific positions to be eliminated.

3. Currently, 3.0 of the Office's 14.0 authorized positions are vacant: an attorney, a consumer protection investigator, and a financial program supervisor.

4. The Governor and tribes have negotiated amendments to the state-tribal gaming compacts that generally allow a greater variety of Class III (casino) games. In some cases (for example, with the Potawatomi facility in Milwaukee) the new compact amendment removes limitations on the number of games played. Further, some tribes have plans to expand the physical size of existing casinos, and it is possible that additional off-reservation facilities could be approved at some point in the future. These changes will increase the oversight responsibilities of the Office in the immediate future.

5. A staff reduction in the Office at this time could be questioned in light of: (a) increased workload and regulatory responsibilities arising from the newly amended compacts; and (b) a recent December, 2002, Legislative Audit Bureau (LAB) evaluation of the Division of Gaming that identified shortcomings in the current oversight functions performed by OIG.

6. The LAB evaluation concluded that the Office's oversight of tribal casinos needs significant improvement. The report states that "... enforcement efforts to date have been limited.... The Division has not conducted compliance, financial, and inventory audits on a regular basis for each facility, nor has every facility undergone each of these three types of audits. In addition, the Division has not developed an overall strategy to ensure that all relevant aspects of gaming operations are reviewed on a regular basis."

7. The LAB made several recommendations aimed at improving the enforcement efforts of the Division of Gaming with respect to tribal casino regulatory oversight.

- Periodic on-site compliance audits, financial audits, and inventory reviews of all gaming locations should be conducted at least once every three years.
- An audit plan should be prepared that identifies common issues that will be addressed in each and every audit or review, as well as the unique issues that will be included in reviews of each casino during on-site visits.
- Priority should be given to conducting audits and reviews at those casinos that have not yet been reviewed; and
- As part of each on-site review, a determination should be made of whether electronic gaming devices that are not approved for operation in Wisconsin are on the casino floors.

8. On April 23, 2003, the Secretary of DOA submitted a request to the Committee to adjust the budget provisions relating to the Office. Under the revised request, OIG would be provided with \$426,100 PR in 2003-04 and \$213,400 PR in 2004-05 and 4.0 PR positions annually to address increased tribal gaming regulatory responsibilities. The additional recommended funding would be provided from tribal gaming revenue.

9. Under the revised request, the Division of Gaming would also be subject to partially offsetting adjustments to other PR appropriations, as follows: (a) \$129,300 PR and 3.0 PR positions annually would be deleted under the general program operations appropriation for racing; and (b) \$33,100 PR and 1.0 PR position annually would be deleted under the general program operations appropriation for bingo. As a result, the total number of authorized positions in the Division would remain unchanged under this proposal. Any actual savings in the racing and bingo appropriation resulting from these reductions in expenditure authority would accrue to the lottery fund. Unobligated revenue at the end of each fiscal year in these two appropriations is constitutionally required to be deposited in the lottery fund.

10. The proposed funding for OIG operations under the DOA request (\$426,100 PR in 2003-04 and \$213,400 PR in 2004-05) would be allocated as shown in the following table:

**Proposed Funding for the Office on Indian Gaming  
(PR Funds)**

<u>Cost Category</u>	<u>2003-04</u>	<u>2004-05</u>
Salaries	\$120,600	\$120,600
Fringe Benefits	<u>41,800</u>	<u>41,800</u>
Total Personnel Costs	\$162,400	\$162,400
Supplies and Services		
Position Set-Up and Office Supplies	\$40,000	\$24,000
Computer Equipment and Enhancements	180,000	20,000
Auditing Equipment	6,700	2,000
Training (Including Travel)	<u>37,000</u>	<u>5,000</u>
Total Supplies and Services	\$263,700	\$51,000
Total Funding	\$426,100	\$213,400

11. The annual amounts proposed for personnel costs for the four new positions (\$162,400) is \$26,900 PR less than the funding removed under SB 44 for two positions. This is because the deletion in SB 44 appears to be based on eliminating expenditure authority for two higher-paid positions in OIG, with an average hourly rate of \$33.48, while the newly proposed positions would have an average hourly rate of \$14.44.

12. The revised proposal also budgets the new positions for 12 months in 2003-04 rather than nine, which is the current policy, and applies an incorrect fringe benefits rate. Making these corrections, the additional personnel costs under the revised proposal should be \$122,500 PR in 2003-04 and \$163,300 PR in 2004-05 (for a revised total increase expenditure authority for the Office of \$386,200 PR in 2003-04 and \$214,300 PR in 2004-05).

13. The revised proposals (as corrected) would be implemented in combination with the provision under the bill that deletes \$189,300 PR and 2.0 PR positions annually from OIG's appropriation. As a result, if the revised DOA request is adopted, the net funding and position authority change for OIG would be \$196,900 PR in 2003-04 and \$25,000 PR in 2004-05 and 2.0 PR positions annually for tribal gaming regulation. The overall increase in funding would not fully fund the amounts proposed for additional supplies and services: \$263,700 PR in 2003-04 and \$51,000 PR in 2004-05. Consequently, OIG would have to fund a share of the costs of implementing its additional regulatory responsibilities from base funding.

14. An increase in base level position authority (14.0 PR positions) appears to be necessary due to the expanded numbers and types of casino games that are allowed under the renegotiated compacts. The proposed addition of 2.0 PR positions for the Office appears reasonable, as this would provide a total of 16.0 PR positions for OIG in the 2003-05 biennium. However, the combination of this new proposal and the provisions of SB 44 does not appear to

clearly address the regulatory oversight needs of OIG in the 2003-05 biennium. An alternative approach could be suggested.

15. A more straightforward approach to addressing the Office's needs would be to restore the \$189,300 PR and the 2.0 PR positions annually deleted under the bill and to provide funding for 2.0 PR additional positions. Funding for an additional investigator position and an auditor position, for example, would require \$85,100 PR in 2003-04 and \$102,800 PR in 2004-05, including salary, fringe benefits, and supplies and services. [DOA could determine the position classifications actually needed to optimize OIG's work.] The four positions provided under this approach would require a change to the bill of \$274,400 PR in 2003-04 and \$292,100 PR in 2004-05.

16. The remaining funding needs relate to non-personnel-related supplies and services, which would include the following, under the proposal:

<u>Expenditure Purpose</u>	<u>2003-04</u>	<u>2004-05</u>
Computer Equipment and Enhancements	\$180,000	\$20,000
Auditing Equipment	6,700	2,000
Training (Including Travel)	<u>37,000</u>	<u>5,000</u>
Total	\$223,700	\$27,000

17. The computer equipment and enhancements relate to current OIG systems: (a) the data collection system, which collects transmissions from the slot accounting systems of the casinos needed to monitor and investigate play and to verify gaming revenues; and (b) the gaming device inventory system, which tracks inventory information relating to the games present in the casinos. Both systems require upgrades to accommodate the increased number and types of games that will be played in future years. Under the 2003 amendments to the state-tribal gaming compacts, tribes may operate such games as poker and other card games, keno and other forms of lotteries, craps and roulette.

18. Auditing equipment includes a variety of devices to test the new games that will be offered by the casinos.

19. Training and associated travel funding would be greater in 2003-04 than in 2004-05 and would focus on staff training needs relating to the new types of games that would be authorized. This initial training would be required for most of the OIG staff and would require out-of-state travel. Ongoing training costs under the proposal would increase base funding by \$5,000 PR in 2004-05 to reflect continuing training needs of a larger OIG staff.

20. These proposed supplies and services expenditure needs appear reasonable, based on the increased regulatory responsibilities of the Office during the next biennium.

21. The staffing and requested supplies and services alternative outlined above would provide \$498,100 PR in 2003-04 and \$319,100 PR in 2004-05 and 4.0 PR positions annually for OIG. Program revenue would derive from tribal gaming revenue. Under this option, funding and positions reductions would still be applied to the racing and bingo functions, as follows: (a) \$129,300 PR and 3.0 PR positions annually would be deleted from the general program operations appropriation for racing; and (b) \$33,100 PR and 1.0 PR position annually would be deleted under the general program operations appropriation for bingo. The net change to the bill would total \$335,700 PR in 2003-04 and \$156,700 PR in 2004-05.

22. While the supplies and services costs shown above appear generally reasonable given the new or expanded regulatory responsibilities under the 2003 amendments, the specific expenditures relating to the computer equipment and training needs remain somewhat vague at this time. The Committee may wish to have DOA report at a later date to apprise the Committee of how the additional supplies and services funding has been utilized in 2003-04. The informational report could be provided on or before September 1, 2004, following the close of the accounting period for the 2003-04 fiscal year.

**ALTERNATIVES**

1. Approve the Governor's recommendation to delete \$189,300 PR and 2.0 PR positions annually from the appropriation for general program operations for Indian gaming under the Governor's budget efficiency measures provision.

2. Provide \$223,800 PR in 2003-04 and \$51,900 PR in 2004-05, as follows: (a) \$386,200 PR in 2003-04 and \$214,300 PR in 2004-05 and 4.0 PR positions annually to the Office of Indian Gaming; (b) -\$129,300 PR and -3.0 PR positions annually from the general program operations appropriation for racing; and (c) -\$33,100 PR and -1.0 PR position annually from the general program operations appropriation for bingo regulation.

<b><u>Alternative 2</u></b>	<b><u>PR</u></b>
<b>2003-05 FUNDING</b> (Change to Bill)	\$275,700

3. Provide \$335,700 PR in 2003-04 and \$156,700 PR in 2004-05, as follows: (a) \$498,100 PR in 2003-04 and \$319,100 PR in 2004-05 and 4.0 PR positions annually to the Office of Indian Gaming; (b) -\$129,300 PR and -3.0 PR positions annually from the general program operations appropriation for racing; and (c) -\$33,100 PR and -1.0 PR position annually from the general program operations appropriation for bingo regulation.

<b><u>Alternative 3</u></b>	<b><u>PR</u></b>
<b>2003-05 FUNDING</b> (Change to Bill)	\$492,400

4. *In addition to Alternative 2 or Alternative 3*, require DOA to provide a report on supplies and services expenditures in 2003-04 relating to the funding provided for the expanded responsibilities of the Office of Indian Gaming under the 2003 state-tribal gaming compact amendments (\$223,700 PR). Require that the report be submitted to the Joint Committee on Finance on or before September 1, 2004.

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