

An Evaluation:

Division of Gaming

Department of Administration

August 2010

Report Highlights ■

The Division's expenditures were \$3.1 million in FY 2008-09.

The State's revenue from all gaming sources totaled \$124.0 million in FY 2008-09.

Tribal revenue was approximately \$1.3 billion in each year from 2007 through 2009.

From January 2007 through December 2009, the Division conducted 67 financial audits and 50 compliance audits of casinos.

In December 2009, the last greyhound racetrack in Wisconsin ceased operations.

The Division of Gaming in the Department of Administration (DOA) oversees the gaming operations of 11 tribes that have negotiated compacts with the State. The compacts permit Indian gaming in Wisconsin and define regulations for tribal gaming operations. The Division is authorized to regulate pari-mutuel racing, but the last remaining greyhound racetrack in Wisconsin closed in December 2009. The Division also regulates charitable bingo and raffles, and other games that are subject to regulation by the State.

Under 13.94(1)(eg), Wis. Stats., the Legislative Audit Bureau is required to conduct a biennial performance evaluation. In completing our work, we reviewed:

- internal controls and the State's revenue and expenditures related to the regulation of Indian gaming and charitable gaming;
- tribal revenue and expenses related to gaming activities;
- oversight activities of the Division's Office of Indian Gaming, including its use of electronic data systems to monitor tribal gaming operations and its financial and compliance audits;
- pari-mutuel racing, including amounts wagered and the greyhound adoption program; and
- trends in charitable gaming and crane games, which are a form of entertainment in which a player maneuvers a crane or claw to obtain toys or novelties worth \$5 or less.

Key Facts and Findings

In 2009, 11 tribes operated 27 casinos in Wisconsin.

Tribal profits from gaming decreased from \$599.5 million in 2007 to \$543.4 million in 2009.

The Division has significantly reduced the time it requires for certifying vendors that provide casinos with gaming-related products and services.

DOJ's Gaming Enforcement Bureau is responsible for law enforcement related to gaming activities.

The State's revenue from bingo activities totaled \$1.5 million from FY 2006-07 through FY 2008-09.

Staffing and Expenditures

In fiscal year (FY) 2008-09, the Division was authorized 34.35 full-time equivalent (FTE) staff to oversee Indian gaming, pari-mutuel racing, and charitable gaming. In that year, the Division's expenditures were \$3.1 million, three-quarters of which were for the salaries and fringe benefits of staff.

We analyzed a judgmental selection of expenditures from FY 2006-07 through FY 2008-09, including travel expenditures. We found that the Chicago home of the Division's full-time legal counsel has been designated as his office headquarters, and from FY 2006-07 through FY 2008-09 the Division reimbursed this employee \$26,300 for mileage between his home and the Division's office and for food and lodging while he stayed in Madison to work.

Division officials believe that the experience and specialized knowledge of this employee justify this unusual arrangement, and they assert that contracting for legal services would have resulted in substantially higher costs. However, this arrangement warrants close monitoring to ensure these expenditures are reasonable and necessary.

State Gaming Revenue

Class III gaming at tribal casinos, including slot machines and table games such as blackjack, is the source of most of the State's revenue from gaming. Pari-mutuel

racing and charitable gaming and crane games provide the remaining portion. Revenue from all gaming sources increased from \$52.0 million in FY 2006-07 to \$124.0 million in FY 2008-09, largely because the Ho-Chunk made a one-time \$60.0 million payment in December 2008, as required by a tribal-state compact negotiated in September of that year.

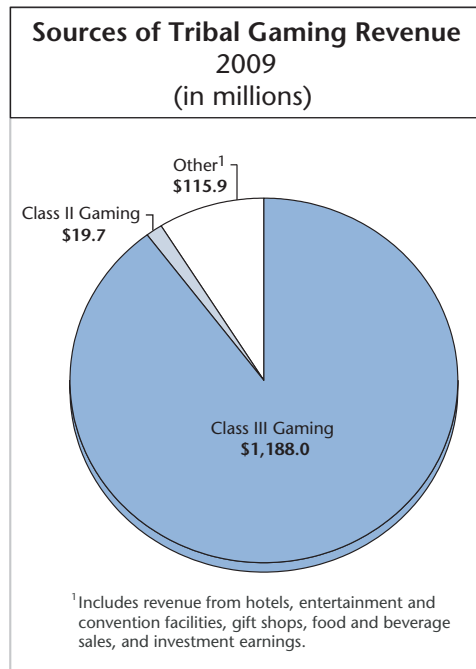
Class III gaming revenue from payments by the tribes that operate casinos was \$122.2 million in FY 2008-09. Separate agreements between the State and the Lac du Flambeau in April 2009 and the Potawatomi in April 2010 allow those tribes to exclude from their net Class III gaming revenue the dollar value of credits a casino gives players to be used in electronic gaming devices. The exclusion of these promotional expenses reduces the State's revenue from the two tribes.

Tribal Revenue from Gaming

Compacts require each tribe to contract for an annual independent audit of its gaming operations and to submit the audit report to the Division and our office. We may release financial information only in aggregated form.

Indian gaming revenue from all sources was approximately \$1.3 billion in each year from 2007 through 2009. Tribes generate gaming revenue primarily from Class III gaming. Net tribal revenue

from Class III gaming, which excludes amounts paid out in winnings, decreased by 2.9 percent from 2007 through 2009.



Tribes incur gaming expenses for general operations, including employee salaries and fringe benefits; promotion and marketing; and depreciation. In aggregate, tribal gaming expenses increased 4.9 percent, from \$743.5 million in 2007 to \$780.2 million in 2009. Tribal gaming profits, or revenue in excess of expenses, decreased 9.4 percent, from \$599.5 million in 2007 to \$543.4 million in 2009.

Enforcement Efforts

The State's regulation of Indian gaming protects the interests of casino patrons, who expect the

games to be fair, as well as both the tribes and the State, which depend on accurate accounting of revenue from Class III gaming activities to determine payments required under the compacts.

The Division conducts financial and compliance audits to verify tribal compliance with provisions of their compacts. From January 2007 through December 2009, it conducted 67 financial audits and 50 compliance audits.

We analyzed a random selection of the Division's working papers and other documentation associated with its 2009 on-site financial and compliance audits of five large casinos. The documents we reviewed were complete and accurate, and they indicated that the Division had followed its audit procedures.

In a prior audit, we expressed concerns that the Division was not independently identifying instances in which amounts recorded by a meter in an electronic gaming device differed by at least 3.0 percent and more than \$25 from amounts counted by casino staff. The compacts require tribes to identify these differences and to investigate and document the cause of each difference. Analyzing these differences is important because differences may identify inaccurate data, malfunctioning gaming devices, or potential fraudulent activity.

Since 2008, the Division has conducted monthly analyses to identify differences. If a difference

for a device lasts for more than seven days, or if the Division believes differences are significant, it contacts the tribe to determine the cause. During its on-site audits, the Division now determines whether the tribes have conducted investigations of all remaining unresolved differences.

The compacts and statutes require DOA to certify the vendors that provide casinos with gaming-related products and services. The Division requires vendor recertification every three years. The average time required by the Division to complete initial certifications decreased from 15.0 months in FY 2006-07 to 9.4 months in FY 2008-09. The average time to complete recertifications decreased from 14.3 months to 4.6 months during the same time period.

From FY 2006-07 through FY 2008-09, the Division approved 62 of the 66 applications it received and collected \$738,200 in certification fees. These fees are used to support general program operations.

Other Gaming Activities

In December 2009, Dairyland Greyhound Park, the last greyhound racetrack in Wisconsin ceased operations. The amounts wagered at Dairyland decreased from \$56.9 million in FY 2006-07 to \$38.0 million in FY 2008-09. State revenue from pari-mutuel racing decreased from \$1.5 million to \$1.1 million during the same period.

The Division also licenses charitable organizations that conduct bingo and raffles, and it registers crane games. From FY 2006-07 through FY 2008-09, the State's revenue from bingo activities totaled \$1.5 million. Its revenue from raffle license fees totaled \$634,100, and revenue from crane game registration fees totaled \$49,100.

The Legislative Audit Bureau is a nonpartisan legislative service agency that assists the Wisconsin Legislature in maintaining effective oversight of state operations. We audit the accounts and records of state agencies to ensure that financial transactions and management decisions are made effectively, efficiently, and in compliance with state law, and we review and evaluate the performance of state and local agencies and programs. The results of our audits, evaluations, and reviews are submitted to the Joint Legislative Audit Committee.

Additional Information

For a copy of report [10-11](#), which includes a response from DOA's Division of Gaming, call **(608) 266-2818** or visit our Web site:



www.legis.wisconsin.gov/lab

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