

**Local Government Mandate Statement  
Kentucky Legislative Research Commission  
2022 Regular Session**

**Part I: Measure Information**

**Bill Request #:** 1762

**Bill #:** SB 213

**Document ID #:** 4604

**Bill Subject/Title:** AN ACT relating to wagering and making an appropriation therefor.

**Sponsor:** Senator David Yates

Unit of Government: X City X County X Urban-County  
Unified Local  
X Charter County X Consolidated Local X Government

Office(s) Impacted: Fiscal Courts; law enforcement; jails;

Requirement: X Mandatory      Optional

Effect on  
Powers & Duties:      Modifies Existing X Adds New      Eliminates Existing

**Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local  
Government**

**SB 213** would legalize fantasy sports contests, sports wagering, and online poker games.

**Sections 1-7** govern “fantasy contests” or simulated games played for prizes and awards. An operator of a fantasy contest with 100 or more participants would be required to register with the Public Protection Cabinet. The initial registration fee would be \$5,000; the annual renewal fee would be either 6% of adjusted gross revenues for the prior calendar year, or \$5,000, whichever is greater. **Section 4** establishes the wagering administration account to receive all funds under the bill and pay program expenses. Five percent of the remaining funds (after paying program expenses) would be paid to the Kentucky problem gambling assistance account created by the bill, and the remainder would be deposited in the Kentucky permanent pension fund established in KRS 42.205.

**Sections 8-9** authorize the public Protection Cabinet to oversee online poker. No person under the age of 18 would be permitted to place an online poker game wager. A vendor that wishes to offer online poker gaming must obtain a license from the Cabinet, with an

initial licensing fee of \$250,000 and an annual renewal fee of \$10,000. A gaming fee of 6.75% of net poker revenue would also be imposed on each online poker vendor. The online poker account is established to which licensing and gaming fees would be deposited. Payments received in excess of expenses incurred would be deposited to the wagering administration fund.

**Sections 10 through 34** establish a system of sports wagering, under the jurisdiction of the Kentucky Horse Racing Commission, that could only be offered by a licensed track or professional sports venue (indoor arena, outdoor stadium, or race track with seating for at least 50,000) under the Commission's jurisdiction, or by an online application available only to people who have registered at a track or professional sports venue, with certain other restrictions.

The requirement for in-person registration would sunset on January 1, 2024, after which the application could be directly downloaded upon proof that the person is 18 years of age or older. A license to offer sports wagering would be required, with an initial licensing fee of \$500,000 and annual renewal fee of \$50,000, payable to the Commission and deposited to the wagering administration fund.

The tax rate on sports wagers would be either 9.75% or 14.25%, depending on whether placed in person or online, and appropriated to the wagering administration fund. An additional tax of 0.5% would be imposed on the adjusted gross revenue on wagers placed at a track, to be allocated to the Thoroughbred development fund or Standardbred development fund, depending on whether the wager was placed at a Thoroughbred or Standardbred racing track, or split evenly between the two funds if track revenue is from both.

**Sections 33-34** prohibit a person from wagering on a game in which the person is a participant. Violation of the prohibition would be a Class A misdemeanor, and tampering with the outcome of a sporting event would be a Class C felony.

**Section 36** exempts the crime of loitering regarding persons engaged in licensed sports wagering. **Section 37** exempts authorized sports wagering, online poker wagering, and fantasy contest wagering activities from the definition of "gambling" that would otherwise be subject to criminal penalties. **Section 38 through 40** exempt the same activities from the provisions relating to promoting gambling in the first degree, a Class D felony; permitting gambling, a Class B misdemeanor; and possession of a gambling device, a Class A misdemeanor.

**The fiscal impact of SB 213 is indeterminate but could have a moderate fiscal impact in those communities with tracks or professional sports venues having a license to offer sports wagering.** If sports wagering results in increased business activity, those local governments authorized to impose a license or occupational tax on businesses within their jurisdiction and that have a track or professional sports venue may see an increase in collections. Cities and counties may impose a license or occupational license fee of 1%-1.25% (counties) depending on the county population, or up to 1.25% (cities) depending

on city classification, on net profits. This would currently affect only a few cities and counties. Given that **SB 213** sunsets the in-person registration requirement for sports wagering eligibility, more people may be able to download the online application and this will increase overall net profits. This provision will provide a substantial advantage over competitors outside of the commonwealth for local tracks and professional sports venues who maintain an online or smartphone application. Individuals will become accustomed to the application before competitors enter the market. This is significant because the National Conference of State Legislatures indicates that mobile wagers account for a large percentage of the total amount wagered across many states including 95% of New Jersey's which is the largest sports betting market.

Most cities and counties participate in the County Employees Retirement System (CERS). Distributions to the permanent pension fund established by KRS 42.205 through **Section 4** would be used to support unfunded liabilities of the Commonwealth's pension funds, and there is little likelihood that any funds would be distributed to CERS through the Kentucky Employees Retirement Plan. If any distributions were made to KERS and subsequently applied to CERS, there could be a positive fiscal impact on any unfunded actuarial liability.

**SB 213 would have an indeterminate to minimal fiscal impact as a result of the criminal penalties.** The bill creates a new Class A misdemeanor. A person convicted of a Class A misdemeanor may be incarcerated for up to 12 months. Misdemeanants are housed in one of Kentucky's 74 full service jails or three life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on an average cost to incarcerate of \$35.43 per day. While the majority of misdemeanor defendants are granted bail, those who not will also cost local jails an average cost to incarcerate of \$35.43 per day.

**SB 213** also creates a new Class C felony. When a court denies bail to a Class C defendant, the local governments is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 74 full service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an average cost to incarcerate of \$35.43, which includes the \$31.34 per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level within 24 months or less to their minimum expiration date or parole eligibility date. The Department of Corrections pays local jails \$31.34 per day to house these Class C felons. The per diem may be less than, equal to, or greater than the actual housing cost.

### **Part III: Differences to Local Government Mandate Statement from Prior Versions**

Part II, above, pertains to the bill as introduced.

**Data Source(s):** LRC Staff; National Conference of State Legislatures; Department of Corrections

**Preparer:** K. Sallee **Reviewer:** KHC **Date:** 3/1/22

