

Written by Administrator
Thursday, 02 June 2022 04:00 -

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When New Jersey officials passed sweeping tax cuts for Atlantic City's casinos last year, they offered [broad claims but little evidence](#) .

At issue, they said, was just how much the industry's taxes were going to rise under the system that determines how much casinos pay in lieu of property taxes.

"We are risking four casinos closing," said then-state Senate President Steve Sweeney, without providing specifics.

Likewise, former Judge Steven P. Perskie, an Atlantic City adviser and the former state lawmaker who authored the Casino Control Act legalizing gaming, predicted dire consequences. "The impact of the increases that would take place in 2022 would put a significant portion of the industry in extreme financial distress," he said, citing a "comprehensive" financial analysis conducted by the state.

But when The Press of Atlantic City and ProPublica sought that financial analysis from the New Jersey Department of Community Affairs, which is tasked with direct oversight of Atlantic City, the agency would not produce it. In an interview, Sweeney also declined to provide evidence of potential closures, saying it would be clear "if you do your homework and you look at the increase that some of these casinos were facing."

So that's what we did.

Over the past few months, The Press of Atlantic City and ProPublica filed a series of public records requests with local and state agencies to help calculate the casino tax liabilities that the

state refused to reveal.

Our analysis centered on two taxes, one called PILOT, which stands for payment in lieu of taxes, and the other called the investment alternative tax.

PILOT was designed to replace typical property taxes beginning in 2017, after casinos repeatedly challenged those annual assessments, and the money collected under that system was distributed to the city, its school district and the county. And the investment alternative tax was a longstanding levy, devoted to community investment in Atlantic City and elsewhere in the state, that casinos had received a temporary break on. Each was set to rise in 2022, largely because casino revenues were up.

To determine what the industry would have paid under the original PILOT system, before the law was changed last year, the news organizations collected three key data points on each casino: gross gaming revenue, including money from online gaming; number of hotel rooms; and acreage. We then plugged those figures into the formula outlined in the 13-page tax law and confirmed the results with the state. What we found cast doubt on officials' claims of financial ruin. (For a detailed methodology, see the last section of this story.)

According to our analysis, the gaming industry's nine properties would have collectively owed \$165 million in PILOT in 2022, a \$35 million hike compared to 2021. Two of the city's nine casinos would have actually seen a decrease in their PILOT.

Casinos Will Pay Millions Less in PILOT Under New Legislation

Note: Amounts that casinos owed for PILOT in 2022 under the 2021 legislation and in 2021 under previous legislation were provided to The Press of Atlantic City and ProPublica by the state's Department of Community Affairs. Amounts that the casinos would have owed in PILOT in 2022 if the 2016 legislation had still been in place were calculated by The Press of Atlantic City and ProPublica.

Separately, we found that the industry owed an additional \$66 million in the investment alternative tax. The state had reduced the amount owed under this tax for the past five years — a break that expired in 2022.

To evaluate the impact of those two taxes on each casino, The Press of Atlantic City and ProPublica shared their analysis with five gaming analysts and former regulators, who weighed the collective tax liability against each property's profits. All of them said that Atlantic City's nine casinos could have weathered their increases and remained open.

"The numbers don't indicate any casino would close," said Roger Gros, publisher of Global Gaming Business Magazine, an industry trade publication.

Others were also skeptical that there would have been multiple closures, calling the claims a common business tactic.

"The industry as a whole is going to use that negotiating leverage, as they always do," said Robert Sturges, a former leader of the state agency responsible for regulating casinos, the Division of Gaming Enforcement, who now consults for the casino industry. "Does it actually come to that? I'm sure it won't."

Casinos Pled Poverty to Get a Huge Tax Break. Atlantic City Is Paying the Price.

To be sure, gaming experts who reviewed the news organizations' PILOT analysis did express worry about the impact on one casino, Resorts Casino Hotel, which relies heavily on online gaming. The casino would have owed more than twice as much for PILOT as it had the previous year, and experts said the resulting financial strain could place the property at risk.

Resorts did not respond to requests for comment.

In a statement, the Casino Association of New Jersey praised the PILOT legislation and Gov.

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Murphy for “recognizing the dire consequences the industry would have experienced had the law not been amended. ... Failing to adjust the PILOT would have resulted in egregious, inappropriate, and inequitable taxes for any industry, let alone an industry that is still fighting to recover from COVID-19.”

John Lloyd, an attorney who serves as a consultant to the state Department of Community Affairs, said he conducted an analysis at the time, which showed “concerning” tax increases. “For some of these casinos,” he said, “you would have the double hit of a big jump in their net liability under pure PILOT, while at the same time they’re paying more in IAT taxes than they did in 2017.”

Sweeney did not respond to a request for comment on our analysis. Perskie declined to answer questions.

“A Fair Number Transparently Arrived at”?

As the industry pressed for tax relief last year, it took issue with more than just the amount of the tax increases.

It argued that the tax formula itself was unfair, largely because it included revenue from online gaming, which boomed amid the pandemic. The problem for the industry: casinos’ technology partners gobble up the bulk of the revenue from internet wagers, according to Joe Lupo, head of the Casino Association of New Jersey and president of Hard Rock Hotel & Casino Atlantic City. As a result, he argues, gaming companies are stuck with the entire tax bill, even though their partner companies are reeling in most of the dollars.

There is no publicly accessible way to verify Lupo’s assertions. The online gambling arrangements for specific casinos are not typically contained in the financial filings of the publicly traded gaming companies.

At least one property, Golden Nugget Atlantic City, appears to have inked a deal to share the PILOT burden, however. The company specified that its internet gaming partner is responsible for the portion of the PILOT dues generated under its online license, according to that firm’s SEC filings. Neither company responded to requests for comment. When asked by the news organizations if more casinos could have their internet partners foot their share of the PILOT

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bill, Lupo replied, "It's not about contract terms."

Along Route 30, one of the roads into Atlantic City, a billboard advertises Golden Nugget Atlantic City's online gaming business.

Credit:

Kriston Jae Bethel for ProPublica

The Press of Atlantic City and ProPublica asked the companies that run Atlantic City's eight other casinos for particulars on their tax arrangements and revenue sharing. All either declined to provide specifics or did not return requests seeking comment.

The Division of Gaming Enforcement also declined to provide any further details on the split between the casinos and their online partners.

Each month, the agency publicly reports gross revenue for online gaming as a single number, combining bets placed on the casinos' own digital platforms with the wagers made on apps run by third parties. The division did not answer questions, only saying that the information provided to the government by casinos is confidential and that its public reporting "reflects the statutory requirements" of the Casino Control Act.

The lack of information makes it difficult for policymakers to evaluate the industry's claims as it shapes tax policy, said Jim Kennedy, the former head of the state Casino Reinvestment Development Authority.

"The question is, 'Do you have a fair number transparently arrived at?'" he said. "I don't know if we have a fair number or not, but I'm sure we don't have it transparently arrived at."

Casino Giants Are Buying Online Gaming Firms

A spokesperson for the Casino Association of New Jersey said that, in general, just 20% to 25% of the total online gaming revenue in New Jersey was attributable to casinos' own platforms. But, according to the Press of Atlantic City/ProPublica review, that number is poised to rise over the course of the PILOT program as gaming companies increasingly make moves to reduce or eliminate third-party costs.

MGM Resorts International, which owns Borgata Hotel Casino & Spa in Atlantic City, led the way in 2018, when it entered a 50-50 joint venture with Britain-based Entain PLC to form BetMGM, an online wagering platform.

The Borgata Hotel Casino & Spa

Credit:

Kriston Jae Bethel for ProPublica

By 2021, Caesars Entertainment Inc. — the parent company of Caesars Atlantic City, Harrah's Resort Atlantic City and Tropicana Atlantic City — had gone further, clearing several hurdles to acquire one of its online betting partners, Britain-based William Hill PLC, which collects about one-fifth of all the money bet on sports in the U.S., according to the company's reports. The nearly \$4 billion deal closed in April last year, bringing the company under the Caesars umbrella.

Bally's Corp. was making similar moves, scooping up a number of betting sites to support its expansion into the online gambling space. When Bally's released its preliminary first-quarter results in April 2021, it also disclosed its plan to acquire U.K. online gaming operator Gamesys Group PLC for \$2.7 billion. The purchase closed in October, one in a series of buys to bring internet gaming operations entirely in-house.

Both Caesars Entertainment and Bally's Corp. will incur some fixed costs associated with online support services, like site hosting and digital cloud space, "but otherwise keep all the remaining economics" — between 85% and 90% of revenue — on their own platforms, according to Jeffrey Stantial, a gaming analyst with investment banking firm Stifel. "At this point, their technology is effectively entirely in-house." Neither company responded to questions about their online segment.

Lupo did not mention those acquisitions in his public remarks, and he dismissed them in an interview with The Press of Atlantic City and ProPublica. "That doesn't speak to my point," he said.

How We Calculated PILOT Liability

The 2016 bill creating the PILOT system laid out a multistep process to calculate what each casino owes in lieu of property taxes. Under the legislation, the amount of the industry's overall payment is pegged to a tiered system based on the prior year's gross gaming revenue. Lawmakers set the highest range at \$3.4 billion to \$3.8 billion, which would result in an industrywide payment of \$165 million. The PILOT amount stays the same for any revenue above that range. That amount is then divided among Atlantic City's nine casinos based on other criteria. Here's how we calculated what each casino's PILOT liability for 2022 would have been if the law had not been changed.

1. Determine the industry's overall PILOT payment by calculating the prior calendar year's total gross gaming revenue, which, in 2021, was \$4.2 billion. Based on the tiers established in the [2016 bill that set the system up](#), the overall PILOT payment would be \$165 million.
2. Calculate each casino's share of the prior year's gross gaming revenue as a percentage of the industry's total gross gaming revenue.
3. Calculate each casino's share of hotel rooms as a percentage of the industry's total hotel rooms.
4. Calculate each casino's share of acreage as a percentage of the industry's total acreage.
5. For each casino, average the percentages from steps 2, 3 and 4.
6. Multiply the industry's overall PILOT payment from step 1 by each casino's average from step 5. The result is each casino's individual PILOT payment under the 2016 rules.

Calculating What 2022 PILOT Liability Would Have Been Under the 2016 Legislation

Source: Hotel rooms and acreage provided by the state Department of Community Affairs; gross gaming revenue provided by the state Division of Gaming Enforcement. Note: Gross gaming revenue reflects the revenues earned from in-person bets and online wagers, including those associated with each casino's third-party operators. The number of hotel rooms for Tropicana excludes rooms in its non-casino hotel, which is assessed under the traditional property tax system and not under PILOT.

[Mollie Simon](#) of ProPublica contributed research to this story.

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