



GENERAL ASSEMBLY
STATE OF ILLINOIS

MEMO

To: General Assembly Members

Fr: Speaker Michael J. Madigan, Rep. Lou Lang and Rep. Robert Molaro

Date: December 10, 2007

Re: Summary of New Gambling Legislation

This memo details the most significant provisions of new gambling legislation that will be introduced later today and available on the General Assembly's website at www.ilga.gov.

I. A New, Independent Illinois Gaming Board

The current Gaming Board would be abolished, though it would remain in place until a new board was appointed. Current members would be eligible for reappointment if they met the eligibility criteria (detailed below). The current board would not be allowed to award the 10th license.

New Gaming Board Membership and Principal Duties

The new board would approve all contracts greater than \$10,000 or of more than one year in duration into which a casino licensee enters (food/beverage, construction, machine supply, etc.) – though the board retains the option to review other contracts if it wishes – and have broad oversight and licensing responsibilities for all Illinois licensees and rule on complaints brought by the independent Director of Gaming Enforcement.

The board would consist of five members appointed by the governor (only from a list of candidates offered by a Nomination Panel – explained below) with Senate confirmation for staggered four year terms – with no more than three members of the same political party.

One member each must have: experience in law enforcement; CPA's knowledge of auditing and complex corporate transactions; and executive experience in the private business sector; the remaining two members must be two former federal or state judges from Illinois.

The following further restrictions would be imposed on board members:

- Members may not hold, or be a candidate for, any elective or appointive office at any level of government in this state, nor hold any position with a political party. They may also not engage in political activity of any kind or support candidates for public office (offer endorsements, provide financial contributions, volunteer their labor, etc.).

- Members may not hold any other compensated employment.
- Compensation shall be the same as a circuit judge (currently \$152,930) for members and the same as an appellate judge (currently \$166,658) for the chairman.
- Re-appointment is possible, after nominees again complete the nomination panel review process: criminal background check, interviews, vetting and ultimate recommendation.

Tough Ethics Standards for Gaming Board Members and Staff and Open Government Requirements

To prevent cronyism and favoritism, board members and staff would be subject to broad five-year revolving door prohibitions after they leave the board and precluded from discussing future employment with those they are charged with regulating. These revolving door prohibitions would also be in effect for two years prior to an individual's service on the board or as a member of its staff.

Board members, staff, spouses and family members would be precluded from having any ownership interest or any other financial relationship with companies that conduct gaming operations. Board members and staff would be required to file statements of economic interest and be subject to a total ban on receiving any gifts from persons with an interest in gaming or racing operations.

Violations by board members, staff, or potential employers would be subject to legal prosecution for a Class 4 felony. Members forfeit their office upon conviction of any crime carrying a possible term of imprisonment of more than one year.

To ensure the public's right to know, outside (ex parte) communications related to any business before the board or potentially before the board and communications between board nominees and the governor, General Assembly members, their staffs, or anyone acting as an agent of the preceding entities are prohibited except in open meetings. The Open Meetings Act and Freedom of Information Act would apply to the board's operations.

II. A New, Independent Illinois Racing Board

The current Racing Board will be abolished and a new one created as an independent state agency. It will retain its regulatory, licensing, and adjudicatory functions while enforcement responsibilities will now fall under the Director of Gaming Enforcement.

New Racing Board Membership and Principal Duties

A new, seven-person Racing Board will be created, with members appointed by the Governor for four-year terms, with Senate confirmation, after receiving recommendations from the Nomination Panel. All ethical restrictions related to the nomination, appointment, and performance of the Gaming Board members will be applicable to the Racing Board members. The Gift Ban, ex parte communications ban, and political activity ban applicable to the Gaming Board also apply to the Racing Board. Membership on the board is considered part-time employment and members will receive their current per diems.

III. Director of Gaming Enforcement (DGE)

A new office of Director of Gaming Enforcement will be created. This person will be an independent state official with at least 10 years of investigatory law enforcement experience (preferably gaming enforcement), appointed by governor (from Nomination Panel recommendation) with Senate confirmation for a five year term, who would: employ investigators to monitor gaming and racing facilities' operations; conduct background checks on applicants for nomination to the Gaming Board, Racing Board and Nomination Panel; have the power to investigate suspected violations of the Gaming and Racing Acts by any licensee; bring complaints before the gaming and racing boards; and file suit in state court to collect fees, penalties and taxes.

The DGE would have complete control over gaming investigators, removing those duties from the Department of Revenue and State Police, the two agencies that currently share investigatory responsibility for gaming.

The DGE would be able to subpoena any records or witnesses and have the ability to grant immunity from prosecution to witnesses, subject to Gaming or Racing Board approval, in order to compel testimony. Those who fail to testify after an immunity grant will be deemed in violation of the Gaming or Racing Acts.

To the extent permitted by court precedent, the DGE has the authority to inspect any gaming premises and to seize gaming devices, without application to the Gaming Board or a warrant.

The DGE would be subject to the same ethical restrictions, including revolving door prohibitions, as Gaming Board and Racing Board members and required to submit to a complete background check as a condition of employment.

Inspector General

An Inspector General will be appointed by the DGE to oversee compliance with the state Ethics Act for the Gaming Board, Racing Board and the DGE's office. The IG will report to and refer violations to the Executive Ethics Commission.

IV. Nomination Panel

Housed within the DGE office, the Nomination Panel will recommend Gaming Board, Racing Board and DGE nominees to the governor, who may only choose from their recommendations. Nomination Panel members would be chosen by a selection committee that consists of five members of the Executive Ethics Commission. The first gubernatorial representative on the selection committee will be the first individual to have served as the chairman of the EEC; in the future, the gubernatorial representative on the selection committee will be the gubernatorial appointee who has the most seniority on the EEC. The other four members of the selection committee will be those appointed to the EEC by each of the other constitutional officers.

The Nomination Panel will include: (i) two former federal or state judges from Illinois; (ii) two former federal prosecutors from Illinois; (iii) one former sworn federal officer with investigatory experience with a federal agency, including but not limited to the FBI, IRS, SEC, DEA, ATF, or any other federal agency; (iv) two former members of federal agencies with experience in regulatory oversight; (v) two individuals with at least 5 years' experience with nonprofit agencies in Illinois committed to public-interest advocacy – after solicitation of (non-binding)

recommendations from the Chicago Urban League, Mexican American Legal Defense Fund, Campaign for Political Reform, Better Government Association, Chicago Crime Commission and League of Women Voters, and any other source deemed appropriate.

To be eligible for consideration, all nomination panel candidates must fill out written applications and submit to a full background investigation (which include: disclosure of any criminal history, involvement with civil lawsuits, detailed financial records - stocks, bonds, other investments – and corporate board participation). They may not hold, or be a candidate for, any elective or appointive office at any level of government in this state, nor hold any position with a political party. They will be subject to the same ethical restrictions as Gaming Board, Racing Board members and the DGE.

The panel will review board candidates' written applications and background investigation results, conduct oral interviews, and prior to nomination hold public hearings to question candidates under oath on their qualifications.

The panel will recommend candidates for nomination to the Gaming and Racing Boards and at least three candidates for nomination to the position of Director of Gaming Enforcement. The governor may choose only from these recommendations. If the governor does not act on the recommendations or appoint a full board within 90 days of their submission by the panel, the panel shall appoint, subject to Senate confirmation, the remaining number of members to the Gaming Board, Racing Board or to the position of Director of Gaming Enforcement.

Any ex parte communication related to gambling or racing matters by Nomination Panel members requires full public disclosure.

V. Licenses, Fees and Regulatory Expenses

The gaming and racing industries in Illinois will pay such fees as are necessary to fully fund the operations of the Gaming Board, Racing Board and the Director of Gaming Enforcement's duties with regard to gaming and racing licensees. Those agencies will determine the budgets necessary to fulfill their statutory responsibilities. Funding for the Gaming Board, Racing Board and DGE, therefore, will be outside of, and not dependent on, the state budget appropriations process – ensuring that those entities entrusted to regulate gaming are financially self-sufficient.

To avoid costly, complicated legal fights, the law would specify that ownership of a casino license is a privilege, not a property right, for which the burden of proof is on the owner to establish its suitability to be granted a license and to continue to possess one. In other words, this provides a statutory incentive for licensees to always be on their best behavior. To ensure the honesty of potential licensees, any misrepresentation or omission on an application is sufficient grounds for denial.

VI. Chicago Casino

A new, Chicago Casino Development Authority, composed of three members appointed by the mayor will be created. The Authority will hold the city's license, awarded by the new Gaming Board, and contract with a private company to actually operate the casino. Both the members of the Authority and the operator must be approved by the new Gaming Board. Members will be required to follow the same Gift Ban restrictions as Gaming Board members and observe the same revolving door prohibitions. CDA board members will receive a per-diem for their service.

Any communications between the mayor, city council members, CDA board members and any outside parties related to the Chicago casino must be memorialized in written form.

The Authority will be required to pay an upfront fee of \$200 million (4,000 positions X \$50,000 per position). However, payment will not be required until both the members of the Authority and the operator are approved by the new Gaming Board. The state will tax the casino at the same sliding scale currently applied to the riverboats.

The Gaming Board would exercise the same level of oversight and authority over Chicago's license as it would over any other licensee. The Authority's operations will be subject to review by the Auditor General.

The operation of a single temporary facility will be permitted for 12 months until a permanent facility is built (subject to approval by the Gaming Board after a full public hearing). After this period, the CDA may request extensions in 6 month increments, but such approvals will require another full public hearing before Gaming Board approval can be granted.

After-taxes, bond repayment and operating expenses, Chicago casino revenues will be divided as follows:

70% - Gaming Endowment Fund, to be used only in this manner:

40% - construction and maintenance of roads, bridges, transit, and municipal facilities

60% - construction and maintenance of schools, parks, cultural institutions, museums

30% - Discretionary Funds

VII. 10th and 11th Licenses

A new 11th license will be created. Both the 10th and 11th licenses shall be competitively bid by the new Gaming Board as 1,200-position riverboats that may be located anywhere in the state as long as they are on water.

Once a license has been awarded, the winning bidder must allow for 25% of their equity interest to be put up for sale in \$5,000 increments. The 25% shall be made available in the following manner: 20% for minority interests and 5% for female interests. If more applications are received than exist available shares, a lottery-based system shall be implemented with complete Gaming Board oversight.

The host municipalities shall receive 2% of the Adjusted Gross Receipts (AGR) and the host county shall receive 3% of the AGR. The county must use its share of the revenue for the criminal justice or healthcare system.

As current law already permits, the bill allows for the possibility that the state may choose to take ownership of these two licenses.

VIII. Additional Positions at Existing Riverboats

Existing riverboats may apply to the current Gaming Board to operate additional positions at their facilities. A total of 3,500 new positions will be made available statewide to these boats. Initially, each of the nine active licensees will have the option of purchasing an equal amount of new positions (388 each); those not used will be offered to those who have purchased their full allotment. Any positions remaining after that may be offered to the racetracks to operate as slots or video poker positions.

Each riverboat will pay a minimum of \$50,000 per new position. To ensure the maximum possible benefit for Illinois residents, 75% of the difference between a casino's AGR for the best 12-month period over the next four years compared to its AGR in 2007 (after subtracting the total amount paid for the new positions) will be payable to the state over a five-year period. This ensures Illinoisans an equitable share of the new revenues casinos are able to generate as a result of being granted new positions.

Host municipalities shall be capped at the current disbursements, but host counties will receive 2% of the new AGR. This money must be used for the criminal justice or healthcare systems.

The riverboats may make modifications and additions to their facilities, including the portion that sits on land, to house the new positions. However, a minimum of 1,200 positions must remain on water. The positions may be placed in a temporary location for up to 12 months after being granted, or longer with the Gaming Board's approval.

IX. Slots at Racetracks and Other Horse Racing Provisions

Existing racetracks may apply to the current Gaming Board to operate slot machines and video poker on their grounds. A total of 3,600 machines will be made available statewide to the tracks. Once they have been approved by the Gaming Board, each of the five racetracks below will have the opportunity to operate positions upon payment of the per-position fee (see below). Positions will be offered initially in the following manner:

Arlington	1,100	Fairmount	500
Hawthorne	900	Balmoral	300
Maywood	800		

Any positions that are not accepted would be retained by the Gaming Board, to be offered equally to the qualified racetracks that have already accepted their full initial allotment. This process would continue until all positions are accepted. If the tracks do not accept all their positions, those leftover will be offered to the riverboats. Every qualified racetrack must have at least 90% of these positions operational within 18 months of their acceptance, or they forfeit the fees that were paid and the right to operate any of the positions. Any unused positions would be made available to 10th and 11th licensees.

Each racetrack will pay a minimum of \$50,000 per position. To ensure the maximum possible benefit for Illinois residents, 75% of the difference between the racetrack's AGR for the best 12-month period over the next four years compared to its AGR in 2007 (after subtracting the 15% paid to horsemen's purses and the total amount paid for the new positions) will be payable to the state over a five-year period. This ensures Illinoisans an equitable share of the new revenues racetracks are able to generate as a result of being granted gaming positions.

The slot machines may be placed in a temporary location for up to 12 months after the racetrack becomes licensed. The Gaming Board may extend that timeframe upon a showing of good cause by the racetrack.

The first 15% of adjusted gross receipts from the operation of the slot machines will be directed to horsemen's purses. State taxes will be payable on the remaining adjusted gross receipts following the same formula to which riverboats are subject. Additionally, after payment of state taxes, a portion of the proceeds will also be distributed to various racing funds, including those that assist racing workers and their families. Remaining monies will be retained by the racetrack.

The split of the local share of revenue shall be 2% to the host municipality and 3% to the host county. The county must use its share of the gaming revenues for its criminal justice or healthcare systems. In the case of Fairmount Park, the county share is split 1.5% for Madison County and 1.5% for St. Clair County.

Racetracks may conduct Advance Deposit Wagering (ADW), or may contract with a third party to offer the service, with the consent of a horsemen's association that represents people who do business at that racetrack. ADW service providers must be licensed by the Racing Board. After payment of the state pari-mutuel tax, proceeds from ADW are to be split 50% to the purse account and 50% to the racetrack.

Purse recapture will end when the racetracks begin conducting electronic gaming.

X. Transfer Tax Surcharge

From 10 years after the effective date of this Act, if any licensee (or its principal owners) sell their facility, or enter into any license-related transaction that would trigger a spike in their income tax liability under federal law, then that licensee or principal owner shall pay to the state an income-tax surcharge in an amount equal to their added federal income tax liability.

This means that if, as a result of the changes to Illinois gaming laws detailed in this memo, the value of a licensee's facility increases and it is sold for a much higher price, the people of Illinois will financially benefit from the transaction as well.

XI. Distribution of New Local and State Revenues

For existing riverboats, the host municipality's AGR will be capped at what it received in 2007. For any additional AGR generated over that capped level, 2% goes to the host county for its criminal justice or health care systems. For new facilities and "racinos," 2% goes to the host municipality and 3% goes to the host county for its criminal justice or healthcare systems. For the city casino, there is no local share for the city, but Cook County would receive 3% for its criminal justice or health care systems. All new facilities will be required to submit a \$3 admission tax to be distributed in the same manner as current law.

All new revenues generated by additional positions at existing casinos, the 10th and 11th licenses, racinos, and the Chicago casino, will be split with 70% of the revenue dedicated to a capital program and 30% of the revenue dedicated to education. Of the money dedicated to education, 20% would automatically be directed to the Chicago Public Schools. Of the remaining revenue: 50% will go to needy school districts that fall within the bottom 30% of Available Local Resources (ALR); 30% will be distributed on a per capita basis; and 20% is for fast growth districts. These moneys must be used to

reduce classroom size, hire reading or math specialists, or hire elementary and middle school counselors in order to identify and help problem students early in their academic careers.

XII. Anti-Gambling Provisions

Compulsive gambling prevention programs will receive \$5 million from the Illinois Gaming Board through assessment on licensees. Each gaming facility must have anti-gambling kiosks erected in a prominent area and must be in operation a minimum of 18 hours a day.