

NEWS

...from the Illinois House of Representatives

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Fact Sheet: An Independent Gaming Board for Illinois

As lawmakers contemplate an expansion of casino gaming, now presents an opportune moment to transform the Illinois Gaming Board into a genuinely independent agency with multiple layers of checks and balances to ensure the integrity of gaming in the state and safeguard the public interest.

Old Gaming Board

The current Gaming Board would ultimately 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 into which a casino licensee enters (food/beverage, construction, machine supply, etc.) and have broad oversight and licensing responsibilities.

The board would consist of five members appointed by the governor (from a nomination panel's recommendations – explained below) with Senate confirmation for staggered four year terms – with no more than three members of the same political party:

- One must have experience in law enforcement and criminal investigations
- One must be a certified public accountant experienced in auditing and with knowledge of complex corporate structures
- One must be an attorney licensed to practice law in Illinois with at least 5 years' litigation experience
- The other two must be former state or federal judges from Illinois
- 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
- 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. Board members, staff, spouses and family members would be precluded from having any ownership interest in companies that conduct gaming operations. 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 and staff would be required to file statements of economic interest and be subject to the Gift Ban Act followed by Illinois lawmakers and constitutional officers. 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, any senator, or their staffs are prohibited except in open meetings. The Open Meetings Act and Freedom of Information Act apply to the board's operations.

Director of Gaming Enforcement (DGE)

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 five year term, who would employ investigators to monitor gaming facilities' operations and with the power to investigate suspected violations of the Gaming Act by any licensee, bring complaints before the gaming board, 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 Board approval, in order to compel testimony. Those who fail to testify after immunity grant will be deemed in violation of the Gaming Act. As allowed by the Constitution, the DGE has the authority to inspect any gaming premises, and to seize gaming devices, without application to the Gaming Board or a warrant. DGE would be subject to the same ethical restrictions as Gaming Board members.

Each licensee shall deposit \$100,000 into segregated funds, held by the DGE, to cover the costs of investigating the licensee. That number must be refreshed annually if it used that year by the Director.

The DGE compensation shall be the same as an appellate court judge (currently \$166,658).

Nomination Panel

Housed within the DGE office, its function is to recommend Gaming Board and DGE nominees to the governor, who may only choose from their recommendations. Its nine members would be appointed by the Illinois Supreme Court, with: (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 FBI, IRS, SEC, DEA, ATF, or any other federal agency; (iv) two individuals with at least 5 years' experience with nonprofit agencies in Illinois committed to public-interest advocacy – after the court's solicitation of (non-binding) recommendations from the Campaign for Political Reform, Better Government Association, Chicago Crime Commission and League of Women Voters, and any other source the court deems appropriate; and (v) two former members of federal agencies with experience in regulatory oversight.

All candidates must fill out written applications and submit to criminal background checks to be eligible for consideration. 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

The panel will review written applications, determine eligibility for oral interviews, confirm satisfactory criminal background checks, and prior to nomination hold public hearings with candidates questioned under oath on their qualifications.

The panel will recommend at least 10 candidates for nomination to the Gaming Board and at least 3 candidates for nomination to the position of Director of Gaming Enforcement. The governor may choose only from these recommendations; he may reject all such recommendations, or nominate some of them but less than 5, in which case he shall ask the panel for the appropriate number of additional recommendations. If the governor does not act on the recommendations in any way within 90 days of their submission by the panel, the panel may appoint the remaining number of members to the Gaming Board or to the position of Director of Gaming Enforcement.

If, within one year of the effective date of this Act, the Gaming Board and the DGE positions have not been filled, all licensees' right to conduct gaming shall be suspended until the positions are filled.

Inspector General

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

Licenses, Fees and Regulatory Expenses

The minimum initial license/annual renewal fee would be \$250,000 and the Gaming Board would be given the latitude to increase the renewal amount based on the costs of regulating a particular licensee. (The current fee is \$25,000 for the first year of operation and \$5,000 per year thereafter).

Licensees shall fund the operations of Gaming Board, Director of Gaming Enforcement. Board and DGE will establish budgets, and the licensees will share in the cost of these budgets. Funding for the Gaming 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 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.