

Summary of Illinois Gaming Expansion Bill

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I. Background

In the final hours of the 101st General Assembly, the Illinois House and the Illinois Senate passed Senate Bill 690, as amended by House Amendment 3 (the "**Bill**"), a bill implementing historic gaming expansion throughout Illinois. Governor Pritzker signed the Bill into law on June 28, 2019 (PA 101-0031).

II. Overview of the Bill

(A) Expansion of Casino Gaming

- **New Casinos.** Six new casinos are authorized; one located at each of the following locations:
 - City of Chicago
 - City of Danville
 - City of Waukegan
 - Any one of the following townships of Cook County: Bloom, Bremen, Calumet, Rich, Thornton, or Worth
 - City of Rockford
 - Williamson County adjacent to Big Muddy River [near Carbondale, IL]
- **Applications for New Casinos.** Applicants must submit their application for a license to the IGB within 120 days of the Bill becoming law (i.e., by October 26, 2019); except with respect to the Chicago casino, where, prior to issuance of the license, a feasibility study is to be completed by the City and IGB. Timing of the feasibility study is as follows: (a) 10 days for City and IGB to select the feasibility consultant, (b) 45 days for the consultant to complete the study, and (c) 90 days for IGB to review the study and make recommendations to the Illinois General Assembly concerning whether terms of the Chicago casino license (as provided in the Bill) should be modified. All new licenses are to be issued by the IGB within 12 months after of the license application is submitted.
- **IGB to Conduct Bid Process.** IGB is to conduct a competitive bidding process for issuance of the new casino licenses.
- **Minority Ownership.** Each applicant for a license must include in its application, among other things, "evidence that the applicant used its best efforts to reach a goal of 25% ownership representation by minority persons and 5% ownership representation by women." In considering whether to grant a license, the Illinois Gaming Board ("**IGB**") shall consider giving a preference to an applicant having minority and women ownership of 16% and 4%, respectively.
- **Minority Participation and Employment.** Each applicant for a license must provide a plan concerning utilization of minority-owned and women-owned businesses and employment of minorities and women.
- **Local Support.** Prior to issuing a new license, the applicant and the municipality within which the casino will be located must, among other things, agree upon the location of the permanent and temporary casino, negotiate in good faith an agreement concerning the casino, and the corporate authority of the municipality must pass a resolution supporting the casino.

- **Gaming Positions Limit.** Chicago casino may operate up to 4,000 positions (collectively including positions at the casino and at airports). All other new casinos may operate up to 2,000 positions, except Williamson County which is permitted up to 1,200 positions.
- **Fees Payable.**
 - *Application Fee.* Each applicant must pay an application fee of \$250,000 plus \$50,000 (initially) to defray costs associated with background investigations conducted by the IGB. If investigation costs exceed \$50,000, then the applicant must pay the additional background investigation costs.
 - *Gaming Position Fee.* The casino must pay a per-position gaming fee of (a) \$17,500 per position if located outside of Cook County (i.e., \$35 million assuming all 2,000 positions); or (b) \$30,000 per position if located within Cook County (i.e., \$60 million assuming 2,000 positions or \$120 million for Chicago casino). Each new casino must reserve the number of positions it intends to use within 30 days after issuance of the license (subject to a 30-day extension issuable by the IGB). Fee is payable within 30 days of license issuance.
 - *Upfront fee.* Each new casino must pay an upfront “reconciliation fee” of \$15 million to the State upon issuance of the license.¹
 - *3-Year Reconciliation Payment.* Each new casino must make a “reconciliation payment” to the State three (3) years after commencing operations. The reconciliation payment is equal to 75% of the casino’s adjusted gross receipts (“AGR”) for the most lucrative 12-month period of operations *minus* the total amount paid for the casino’s gaming positions (i.e., the gaming position fees paid as described above). With consent of the IGB, the reconciliation payment may be paid in annual installments over two years. Installment payments must include a market rate of interest as determined by the IGB.
 - *Gaming and Admission Taxes.* Each casino must pay an admission tax and gaming privilege tax (see paragraph (D) below).
 - *Additional City Privilege Tax.* In addition to the gaming taxes payable to the State, the Chicago casino (and no other casino) pays an additional privilege tax equal to 33.3% of the casino’s AGR. This tax money is collected by the State and appropriated to the City to be used by the City to make its annual contributions to the City’s policemen’s and firemen’s pension funds.
- **Temporary Casino.** Each new casino can operate at a temporary facility for up to 24 months, subject to a 12-month extension that may be granted by the IGB.
- **Airport.** The Chicago casino may operate slot machines (only) at Chicago’s airports, O’Hare and Midway, provided that (a) gaming operations are conducted in a secured area located beyond the TSA checkpoints, and (b) gaming is only available to airline passengers who are at least 21 years of age and are members of a private club (and not the general public).²

¹ It is unclear as to whether the \$15 million reconciliation fee is an additional fee or an advance against the 3-year reconciliation payment that will be credited against such payment.

² Presumably, gaming cannot be conducted at an airport without approval of the City.

(B) Changes to Existing Riverboats/Casinos

- **Land-based Facility.** Existing riverboat casinos may move to a land-based facility upon paying a \$250,000 fee and obtaining IGB approval.
- **Increased Gaming Positions.** Each existing casino may expand its gaming operations from 1,200 to 2,000 positions (an increase of up to 800 positions). Casinos must reserve their gaming positions within 30 days of the Bill becoming law (i.e., by July 28, 2019), subject to a 30-day extension that may be granted by the IGB.
- **Gaming Position Fee.** For each new position acquired by a casino, the casino must pay a position fee of \$17,500 per position located outside Cook County and \$30,000 per position located within Cook County.
- **Reconciliation Fee.** Each existing casino that expands its gaming positions must make a reconciliation payment to the State three (3) years after the additional gaming positions begin operating at the casino. The reconciliation payment is equal to 75% of the casino's "average gross receipts" for the most lucrative 12-month period of operations *minus* the total amount paid for the new gaming positions. "Average gross receipts" means (a) the increase in AGR for the most lucrative 12-month period of operations over the adjusted gross receipts for 2019, *multiplied by* (b) the percentage derived by dividing the number of additional gaming positions obtained the casino by the total number of gaming positions operated by the casino. With consent of the IGB, the reconciliation payment may be paid in annual installments over two years. Installment payments must include a market rate of interest as determined by the IGB.

(C) Gaming at Racetracks.

- **Gaming at Racetracks.** Each racetrack may operate slot machines and table games (i.e., become a full "racino"). Within 60 days after the Bill becomes law (i.e., by August 27, 2019), a racetrack may submit an application to obtain a gaming license. Within 120 days after receiving an application, the IGB shall determine whether to grant the gaming license.
- **Application Fee.** Each racetrack applicant shall pay an application fee of \$250,000 plus \$50,000 (initially) to defray costs associated with background investigations conducted by the IGB. If investigation costs exceed \$50,000, then the applicant must pay the additional background investigation costs.
- **Gaming Position Limit.** Each racetrack may operate up to:
 - 1,200 gaming positions at racetracks located within Cook County (i.e., Arlington Park, Hawthorne Race Track and new racetrack described below)
 - 900 gaming positions at racetracks located outside of Cook County (i.e., Fairmont Park)
- **Temporary Facility.** Each track can operate at a temporary facility for up to 24 months, subject to a 12-month extension that may be granted by the IGB. Gaming may take place at existing structures at the racetrack or at a facility within 300 yards of the racetrack.
- **Gaming Position Fee.** Each track must pay a position fee of: (a) \$17,500 per position if located outside of Cook County; or (b) \$30,000 per position if located within Cook County. Positions must be purchased within 120 days of the racetrack's receipt of its gaming license. If any track does not acquire the maximum number of positions permitted, the IGB may offer the remaining positions (by competitive bidding process) to tracks that purchased all of the positions that were offered to it and such tracks may acquire additional positions.³ All gaming positions obtained by a track must be

³ Based on this provision, it appears that a racetrack could purchase positions in excess of the gaming position limit noted above.

operational within 18 months or be forfeited. *No unreserved track gaming positions may be allocated by a track for use by a new or existing casino.*

- **Reconciliation Fee.** Each track obtaining gaming positions must make a “reconciliation payment” three (3) years after the date the licensee begins operating such positions in an amount equal to 75% of the difference between its adjusted gross receipts from gaming and amounts paid to its purse accounts under Section 56(b)(1) of the Illinois Horse Racing Act for the 12-month period for which such difference was the largest, *minus* an amount equal to the gaming position fee paid for such position. With consent of the IGB, the reconciliation payment may be paid in annual installments over two years. Installment payments must include an annual market rate of interest as determined by the IGB.
- **New Racetrack.** A new racetrack is permitted to be opened in one of the following townships of Cook County: Bloom, Bremen, Calumet, Orland, Rich, Thornton or Worth.

(D) Admissions Fee and Gaming Taxes – for Casinos and Racetracks.

- **Admission Tax.**⁴ No change to the admission tax assessed on riverboats/casinos. The admission tax for all new and existing casinos except the Jumer’s Rock Island is \$3 per person. The admission fee for Jumer’s Rock Island is \$2 per person. The admission fee for racetracks is \$3 per person.
- **Gaming Privilege Tax.** All riverboats, casinos and racetracks pay to the State a privilege tax on its AGR. Beginning when the first new casino begins operations (not racetrack gambling operations), the privilege tax will be assessed at the following rates:

TABLE GAMES (NEW)	
<u>AGR</u>	<u>Privilege Tax Rate</u>
up to \$25,000,000	15.0%
Over \$25,000,000	20.0%
ALL OTHER GAMBLING GAMES (No change)	
<u>AGR</u>	<u>Privilege Tax Rate</u>
up to \$25,000,000	15.0%
\$25,000,000 up to	22.5%
\$50,000,000 up to	27.5%
\$75,000,000 up to	32.5%
\$100,000,000 up to	37.5%
\$150,000,000 up to	45.0%
in excess of \$200,000,000	50.0%

- **Promotional Play Not Taxed.** Beginning on January 1, 2020, the calculation of “gross receipts” or “adjusted gross receipts” shall not include the dollar amount of non-cashable vouchers, coupons and electronic promotions redeemed in the casino or racetrack, up to an amount not to exceed 20% of the casino’s or racetrack’s AGR.
- **CapEx Tax Credit.** From the effective date of the Bill (i.e., from June 28, 2019) until June 30, 2023, an existing casino licensee receives a dollar-for-dollar credit against its gaming privilege tax for any renovation or construction, with a cap of \$2,000,000.

⁴ Generally, of the per person admission tax collected by the State, the host municipality of the casino will receive \$1 per person. For the Chicago casino, the \$1 per person is divided: \$0.70 to the City of Chicago, \$0.15 to the Village of Maywood, and \$0.15 to the Village of Summit.

- **Hold Harmless.** If, during the period (such period the “**Adjustment Period**”) (a) commencing on January 1 of the year immediately following the earlier of (such year, the “**Initial Year**”): (i) the commencement of gambling at a Chicago casino; or (ii) 24 months after the date the Bill becomes law (i.e., after June 28, 2021), and (b) continuing until the second calendar year thereafter, a casino licensee receives less of its AGR than it received in 2018, then the gaming privilege taxes that the casino is required to pay is reduced to the extent necessary so that the casino receives the same AGR as it did in 2018, but such reduction of tax shall not exceed 3% of the casino’s AGR (the “**Cap**”). The Cap, however, is increased by 0.2% for each \$15 million spent on casino expansion costs up to \$75 million in total costs and the Adjustment Period will be extended by one year for each such \$15 million spent, provided that the Cap may not exceed 4% of the casino’s AGR in any year and the Adjustment Period may not exceed the 9th year after the Initial Year.

(E) Sports Wagering Act

- **Licensees.** Licenses for sports wagering may be issued to the following:
 - Any casino/riverboat – to accept wagers at its facility and by internet or mobile application
 - Any racetrack – to accept wagers at the racetrack, at up to 3 OTB facilities and by internet or mobile application
 - A sports facility or its designee⁵ - up to 7 sports facilities having capacity of greater than 17,000 persons (e.g., Wrigley Field, Guaranteed Rate Field, Soldier Field, United Center, Allstate Arena, SeatGeek Stadium, Joliet Speedway, Gateway International, Metro East St. Louis Raceway, etc.) or their designees may accept wagers at or within a 5-block radius of the sports facility and by internet or mobile application. Any sports facility licensee must have an agreement with any team that plays at the sports facility.
 - An online only provider - up to 3 licensees may accept wagers by internet or mobile application only, *provided* that the IGB may accept applications for this type of license (by competitive bidding process) within 540 days (18 months) after the issuance of the first sports wagering license and the IGB shall announce the winning bidders within 630 days (21 months) after issuance of the first sports wagering license
- **Manager License.** Any of the above-listed sports wagering licensees may contract with an entity to conduct their sports wagering operations and this entity must obtain a “management services provider license” for an application fee of \$1 million.
- **Prohibited wagers.** No wager may be accepted on sporting events involving an Illinois collegiate team; minor league sports teams; or K-12 sports events. Until the first “online only” sports wagering license is issued by the IGB, wagerers must first sign up for sports wagering in person at a licensed facility and thereafter can wager online or via mobile application.
- **Term.** Licenses have a term of 4 years period; renewal fee is \$1 million for all except management services provider renewal is \$500,000
- **Wagerers.** Wagerers must be at least 21 years of age and physically located in the State at the time of placing the wager.
- **Fees.** Fees for sports wagering licenses are as follows:
 - Casino/riverboat licenses
 - Existing casinos - 5% of adjusted gross receipts of the casino from the preceding calendar; not to exceed \$10 million

⁵ A designee of a sports facility may be a casino, racetrack or management services provider licensed by the IGB to accept sports wagers.

- New casinos – initial fee of \$5 million, adjusted after 12 months of operations based on 5% of the casino’s AGR
 - Racetrack licenses
 - Existing tracks – greater of: (a) 5% of its handle from the preceding calendar year or (b) the lowest amount that is required to be paid by a casino licensee to obtain a sports wagering license
 - New track – initial fee of \$5 million, adjusted after 12 months of operations based on 5% of the track’s handle
 - Sporting Venues - \$10 million
 - Online only - \$20 million
- **Lottery Pilot Program.** In addition to the above sports wagering licensees, the Illinois lottery may issue one (1) central system provider license. This licensee must pay a fee of \$20 million. Under this license, sports lottery terminals may be placed in up to 2,500 lottery retail locations during the first 360 days after the Bill becomes law (i.e., until June 22, 2020) and in up to an additional 2,500 lottery retail locations during the second year after the Bill becomes law (i.e., after June 28, 2021). The program sunsets on January 1, 2024. Sports lottery terminals may accept only parlay wagers and fixed odds parlay wagers.
- **Taxes.** A privilege tax of 15% of the licensee’s AGR from sports wagering is paid to the State. The State imposes an additional privilege tax of 2% of the licensee’s AGR from sports wagers placed within Cook County; this additional tax is appropriated to Cook County’s criminal justice system.

(F) Amendments to Video Gaming Act.

- **Expansion at Existing Locations.** Each licensed location may operate 6 (increased from 5) video gaming terminals. Additionally, “large truck stop establishments” may operate up to 10 video gaming terminals.
- **Increase of Maximum Wager.** VGT maximum wager is increased from \$2 to \$4.
- **Increase in Maximum Winnings.** The maximum cash award for the maximum VGT wager is \$1,199 (increased from \$500).
- **Progressive Jackpots.** Progressive jackpot games are authorized. The IGB shall implement rules for these games within 90 days of the Bill becoming law (i.e., by September 26, 2019). The maximum jackpot is \$10,000.
- **Increase in Tax.** The tax imposed on net terminal income is increased from 30% to 33% beginning July 1, 2019, and to 34% beginning July 1, 2020.