

NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VII. Sec 1

(X) Memo on Original bill

**BILL NUMBERS:** Senate: 5586  
Assembly:

**SPONSORS:** Senate: Senator John Bonacic  
Assembly:

**TITLE OF BILL:** AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to casino gambling; to amend the state finance law, in relation to establishing the real property tax reduction account and the Belmont revitalization account; to amend the tax law, in relation to expansion of video lottery terminals; to amend the tax law, in relation to allowing off-track betting corporations in the state to host video lottery terminals; and to amend the executive law and the racing, pari-mutuel wagering and breeding law, in relation to the terms of office and salaries of members of the state gaming commission

**PURPOSE OR GENERAL IDEA OF BILL:** To establish a mechanism for the licensing of casino gaming and to authorize the placement of Video Lottery Terminals in each Off Track Betting region.

**SUMMARY OF PROVISIONS:**

Section 1 amends the Racing, Pari-Mutuel Wagering and Breeding Law to add a new Article 13 (Sections 1301-1307):

Section 1301 provides for a Statement of purpose of Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law;

Section 1302 provides for a licensing order for casino gambling facilities (if the same are approved via a Constitutional amendment). The order of the licensed facilities would be as follows:

\* The first casino would be licensed between 1/1/14 and 1/1/15 and be in the Counties of Columbia, Delaware, Greene, Sullivan, and Ulster;

\* The second casino would be licensed between 7/1/14 and 7/1/15 and be in the Counties of Broome, Seneca, Tioga, Tompkins, Chemung, Schuyler, and Wayne;

\* The third casino would be licensed between 7/1/14 and 7/1/15 and be in the Counties of Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, and Washington.

\* The fourth casino would be licensed between 7/1/15 and 7/1/16 and be in the Counties of Delaware, Greene, Sullivan, and Ulster.

\* The fifth casino would be licensed between 7/1/16 and 7/1/17 and be the Counties of Delaware, Greene, Sullivan, and Ulster or alternatively, in the Counties of Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, and Wyoming and the portions of the Counties of Chemung, Ontario, Schuyler, Wayne and Yates West of New York State Route 14;

\* The sixth and seventh casinos would be licensed to be in either Queens or Westchester Counties or at a location which was once in an exclusivity area but no longer is. Those casinos would be licensed between January 1, 2019 and January 1, 2021.

Section 1302(b) provides that no subsequent license can be issued until the first license is issued, but thereafter that the commission may extend the time to issue a license for the remaining casinos (2-5) by up to a year, and issue subsequent licenses. This means that the failure to issue license 2, for example, will not hold up the issuance of licenses, 3, 4, and 5.

Section 1302(c) provides that within 30 days of the application deadline for a casino license, the gaming commission shall schedule a public hearing in a county where an applicant proposes to locate a casino gambling facility.

Section 1302(d) provides for the creation of a casino gambling facility site selection board. The board will be comprised of 5 individuals with expertise in real estate or finance (or both). The board shall appoint a financial advisor to independently evaluate each application for fiscal integrity in an effort to maximize revenue for the State.

Section 1303(1) provides that the gaming commission shall issue requests for applications for the seven gaming licenses. The commission shall establish the time and date for the receipt of gaming applications, the application form, a general description of an anticipated timeline to process applications, and a contact person at the gaming commission whom applicants may contact.

The application will include but is not limited to:

- \* the name of the applicant;
- \* the identity of persons who have a direct or indirect interest in the applicant;
- \* an independent audit report of all financial activities and interests of the applicant;
- \* evidence of financial stability
- \* designs for proposed gaming facility and a construction timeline;
- \* description of ancillary entertainment services and non-gaming amenities;
- \* the minimum number of employees at the facility;
- \* any other studies required by the commission which shall include at a minimum the economic benefits to the region and state, local and regional environmental, traffic, and infrastructure impacts, impact on the local and regional economy including the impact on cultural institutions and small businesses in the host and surrounding communities;
- \* cost/benefit analysis relating to the project;
- \* estimated state and municipal revenue;
- \* total investment proposed by the applicant;
- \* the property location and evidence of ownership or control of the property; and
- \* the approval of the municipality and county where the casino is proposed to go (in the case of licenses 1 – 5).

Section 1303(d) and (e) provides for the establishment by the commission of a minimum licensing fee and a recommendation by the commission to the Legislature of minimum tax levels. Both the licensing fee and tax level recommendation would be made by 10/1/13.

Section 1303(f) authorizes the site selection board or the gaming commission to conduct personal interviews of representatives of bidders and review the criminal history and financial backgrounds of the bidders and their officers, directors, shareholders, executives, and members.

Section 1303(2) provides for the gaming commission to issue the casino gambling facility license

based on the recommendation of the site selection board unless the commission makes on the record findings why the Board's recommendation should not be followed.

Section 1303(2) also establishes the criteria the site selection board shall utilize to make their recommendation for who shall receive a casino license. That criteria includes:

- \* maximizing revenues to the state;
- \* realizing maximum capital investment exclusive of land and infrastructure cost;
- \* implementing a workforce development plan that utilizes the existing labor force;
- \* non-gaming amenity development;
- \* promoting local businesses in host communities;
- \* providing high quality jobs in the gaming facility; and
- \* mitigation of adverse impacts relating to problem gaming.

Section 1303(3) provides that not more than one casino licensee may be authorized in any county except in the County of Sullivan, where no more than two may be authorized.

Section 1304 establishes general conditions of casino licenses including performance collateral Requirements; the form of the license and the obligations of the licensee to abide by the license and applicable laws and to cooperate with law enforcement and investigatory agencies and to do business with and employ only those approved or registered by/with the gaming commission.

Section 1305 provides that final determinations of the commission are reviewable pursuant to Article 78 of the CPLR and provides for a 30 day statute of limitations and the review standard of arbitrary and capricious.

Section 1306 establishes a revenue fund for gaming revenues and provides that 80% of the revenue will go for elementary and secondary education and 20% shall go for property tax reduction.

Further provides that if a casino is ever sited in Queens County, for the first five years thereafter, 65% of revenue shall go to elementary/secondary education, 20% shall go to property tax reduction, and 15%, not to exceed \$75 million per year, shall be payable to the Belmont revitalization fund. Provides however, that under no circumstance may the amount going to education be less than was generated by the current Queens VLT facility (Aqueduct) from the year preceding the licensure of a casino in Queens County ( if such licensure occurs). After five years, the revenue from any Queens casino shall be disseminated in the same manner as any other casino (80% for education and 20% for property tax reduction).

Section 1307 provides that the purposes of the tax law under Section 1612 relating to horse racing purse enhancement, racing industry, and breeding development funding is maintained at at least the 2013 levels. This section also requires the gaming commission to make a report to the Legislature recommending a permanent formula to fund these agricultural/horse racing related interests.

Section 2 Amends Section 109-a of the Racing, Pari-Mutuel Wagering and Breeding Law to require labor and MWBE protections (Executive Law Article 15-a) in the development of casino gaming facilities. These include prevailing wage (Labor Law 220) requirements, and (if the gaming commission determines that the record supports one), project labor agreements; payment bond; that existing apprenticeship programs be in place for any contract over \$3 million (existing meaning the contractor/subcontractors shall have graduated an apprentice in the past three years and currently have an apprenticeship program).

Section 3 Establishes the Real property tax reduction account consisting of the property tax reduction portion of gaming revenues as described in Section 1306 of the racing, pari-mutuel wagering and breeding law.

The property tax reduction revenue would go 20% to the “host community” as determined by the state gaming commission and the balance to counties across the State.

**Section 4** Establishes the Belmont revitalization account. The account will be utilized to promote economic development in Nassau County, and particularly, Belmont Racetrack and the surrounding communities. The funds will be allocated pursuant to the authorization of a board appointed consisting of the Majority and Minority leaders of the Nassau County Legislature and the Nassau County Executive.

**Section 5** Directs the gaming commission to make a final report with recommendations on the expansion of VLT facilities by December 1, 2014.

**Section 6** Authorizes VLTs at an OTB facility in each of Nassau and Suffolk counties.

**Section 7** Amends the executive law to add to the list of salaried positions the chairperson of the gaming position and the members of such position and establishes their salaries (\$127,000 for the chairman and \$120,800 for the members).

**Section 8** Amends Section 102 (3)(4)(5) of the Racing, Pari-Mutuel Wagering and Breeding Law to provide that the gaming commissioners would have terms of 9 years (initial appointments for the Governor would be for terms of 6, 7, 8, and 9 years and the two total appointees by the Temporary President of the Senate and Assembly Speaker would have nine year terms.

**Section 9** Provides for the effective date.

**JUSTIFICATION:** The Legislature is expected to consider second passage of a Constitutional amendment to authorize up to seven, private sector casino gambling facilities in New York. If such legislation passes, there needs to be a mechanism in place to issue the gaming licenses. This legislation provides that mechanism.

**LEGISLATIVE HISTORY:** New bill.

**FISCAL IMPLICATIONS:** It is anticipated that billions of dollars in tax revenue and direct job creation will be generated by the passage of the Constitutional amendment to authorize casino gaming. An increase in education funding and funds to reduce property taxes will be made available to the state and to localities as a result of the passage of this legislation and the Constitutional amendment.

**EFFECTIVE DATE:** Immediately provided that section 6 shall take effect on January 1 after it shall have become a law unless an amendment to the Constitution has not been passed authorizing casino gaming, in which case section 6 shall not take effect. Further, no casino gaming licenses may be issued until Constitutionally authorized.