

THE STATUS OF GAMING IN ILLINOIS

By Cory Aronovitz



Now that the Illinois Supreme Court has ruled that the Video Gaming Act is constitutional and the Illinois Legislature has passed a gaming expansion bill, where does the state actually stand when it comes to gaming? There are a number of things that need to occur before video gambling terminals are turned on. The Illinois Gaming Board needs to finish promulgating regulations related to video gaming; release applications for locations; award a central system contract; license manufacturers, suppliers and distributors; complete investigations of operators; and have games submitted to the test lab for certification.

The board will also ultimately have to develop a system for rolling out games throughout the state. Another issue waiting to be resolved is whether the city of Chicago will repeal its ban on video gambling. While Chicago has not “opted out” of video gaming, many see its ordinance banning video gambling as an impasse. It is unclear at this point whether Chicago’s mayor will support repealing the ordinance clearing the path for video gaming in the city.

What may help expedite some of this process is if SB744 is sent to the governor and is signed into law. SB744, the gaming expansion bill that is detailed below, has a provision related to video gambling. If approved, it requires the Illinois Gaming Board to complete all regulations related to video gambling on an emergency basis within 120 days. It also requires the board to release applications for locations within 60 days, and upon receipt of a completed application, requires the board to issue a provisional or temporary license to locations.

There are restrictions and limitations related to issuing a temporary license. It requires the applicant to have a valid liquor and/or charitable games license, as well as for the applicant to be current with all taxes. It also restricts temporary licensing to only those who have not had any issues related to gambling in the past. It requires the applicant to submit a criminal background report conducted by the Illinois State Police. And it allows the board to

rescind the temporary license if any issues arise during its continued background investigation. This will assist the board in processing thousands of location applications. By requiring the applicant to provide a background report, the integrity of the regulatory process will be preserved.

The board is making progress in this arduous task. It has now set aside a separate meeting date for video gaming. It has processed dozens of applicants for manufacturers', suppliers' and distributors' licenses and is expected to take action on these applications shortly. It is actively investigating close to 100 operator applicants, with more applicants expected to file as a result of the Illinois Supreme Court decision.

The board's job however, could possibly increase significantly if SB744 becomes law. In May, the legislature passed a gaming expansion bill. The senate president has been waiting to send the bill to the governor for action. The governor has been actively meeting with groups that would be affected by the expansion bill, and he has not publicly stated where he stands on the bill. Once the governor receives the bill, he has 60 days to take action. He can sign it into law, he can veto it or he can make changes to the bill, called amendatory veto. If he makes a change or vetoes the bill, it goes back to the legislature to either override the action or accept his changes. If the governor does nothing within 60 days, the bill automatically becomes law.

As amended by HA#1-7, SB744 is a gaming expansion proposal. In short, the bill provides for:

1. A casino in the city of Chicago
2. Four new riverboat casinos
3. Additional gaming positions at the existing riverboats

4. Slot machines at the six existing racetracks
5. Live racing and slots machines at the racetrack at the Springfield state fairgrounds
6. One-time, per-position fees payable by each facility
7. A lowered tax rate on gaming revenues
8. Numerous benefits for the horse racing industry

Chicago Casino

- May be land based or docked on Lake Michigan and can operate up to 4,000 positions.
- A temporary location can be in operation pending construction of a permanent facility.
- Positions may be located at the airports, so long as gaming occurs beyond the security check, only slot machines are offered and the total gaming positions operating in the city remains under the 4,000-position limit.
- The mayor appoints the five-member Chicago Casino Development Authority, which oversees the construction and operations of the casino.
- Day-to-day operations are run by a casino operator, which is selected by a competitive bidding process.

Springfield Fairgrounds Racetrack Authority

- Governed by the new Springfield Fairgrounds Racetrack Authority
- The authority will contract with a racing contractor for the conduct of live racing.
- Live harness racing is authorized to be conducted year-round, but during daytime hours only. (Actual racing days will be limited, as awarded by the racing board.)



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- The authority is authorized to apply to the board for licensure as an electronic gaming licensee, allowing it to operate up to 900 slot machines during days when live or simulcast racing occurs.

Slots at Racetracks

- Arlington, Maywood and Hawthorne would have up to 1,200 positions each.
- Balmoral, Fairmount, Quad City Downs and the Springfield fairgrounds would have up to 900 positions each.
- Gaming would be limited to slot machines, i.e., no table games.
- The positions would be use 'em or lose 'em. If a racetrack isn't using all of its allotted positions, other racetracks may purchase them.
- Electronic gaming can occur from 8 a.m. to 3 a.m. every day live racing is conducted or a simulcast signal is received (364 days a year, currently).
- Electronic gaming can occur at a temporary facility pending construction of a permanent facility.
- Arlington, Maywood and Hawthorne would be allowed to move their entire facilities within three miles of their current location, with board approval and in consultation with the racing board, so long as such relocation doesn't put that racetrack within five miles of the Des Plaines riverboat.

Four New Riverboats

- Located in Park City, Danville, Rockford and South Suburban Cook County within one of these following townships: Bloom, Bremen, Calumet, Rich, Thornton or Worth.
- Licenses to operate these facilities will be bid in the same manner as the 10th license. Municipalities will pre-approve the gaming companies applying to manage the facilities, but these companies will still be required to go through the board's vetting process.
- They may be land based.
- The board must consider an applicant's revenue-sharing agreements with other municipalities and its level of ownership by minorities, women and people with disabilities.
- Gaming can occur at a temporary facility pending construction of a permanent facility.

Existing Riverboats

- Positions increase from the current 1,200 to 1,600 immediately; they would increase to up to 2,000 in 2013.
- The positions are also use 'em or lose 'em. If a facility isn't using all positions, other facilities may purchase them.
- They may move to land based.
- The Peoria facility may move up to 10 miles, if approved by the board and East Peoria.
- Gaming can occur at a temporary facility pending construction of a permanent facility.
- There would be a 3 percent surcharge for the horse racing industry ends.

Taxes and Fees

- Wagering tax rates would decrease gradually on Jan. 1, 2012, and July 1, 2013; the top rate would fall from 50 percent to 40 percent. There would also be tax break for table game revenue for facilities with more than \$100 million in receipts. Additionally, two tax brackets for receipts over \$300 million would be added as follows:

- For receipts of \$300 million to \$350 million: 30 percent
- For receipts in excess of \$350 million: 20 percent

- Would exclude non-cashable vouchers, or comps, from riverboats' and casino's taxable revenue. After three years, the board will issue a report evaluating the practice.

- There would be a 10-year "hold-harmless" for the existing 10 riverboats; if net revenues fall, the tax liability on the riverboats will be reduced up to an amount equal to 5 percent of AGR.

- There would be a tax credit of \$2 million each for construction costs for the existing nine riverboats. Additionally, the Alton Belle will be eligible for a tax credit of up to 8 percent of total project costs for construction of a new facility.

- Initial fees would be \$25,000 per position in Cook and \$12,500 per position outside of Cook.

- After four years, each facility must pay a reconciliation fee equal to 75 percent of its best year's receipts (this can be paid over five years, with interest added). Reconciliation fees for existing riverboats would be based on increased receipts over 2012, divided per position obtained.

- The 10th license would be subject to initial and reconciliation fees, but would receive a credit equal to amounts already paid or scheduled to be paid, as per its 2009 bid proposal (\$272 million, present value).

- Fees for racetracks' initial licensure or renewal are \$100,000 per facility.

Horse Racing Industry Benefits

- Protections for live racing would include:

- Racing dates awarded annually cannot drop below current levels.
- Each racetrack must conduct a minimum of 240 races per year or forfeit its slot machines.

- Alterations to the racetrack facilities can be made, but the racing and gaming boards shall ensure that those alterations don't result in live racing being ancillary to electronic gaming.

- Electronic gaming must occur within 300 yards of the physical track, and an all-weather egress must connect the electronic gaming facility to the race track or a free shuttle must be provided.

- Horsemen's purses receive gaming revenue from racetracks.

SB744 is estimated to generate about \$1.4 billion in one-time fees and about \$400 million to \$500 million (once fully implemented) in recurring tax revenue, which would be split between education, capital, local government distributions and other stated purposes.

If enacted, Illinois will increase its gaming positions to approximately 39,000, excluding video gaming.



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