

PROGRAM BILL # 10

GOVERNOR'S PROGRAM BILL

2013

MEMORANDUM

AN ACT to amend the racing, pari-mutuel wagering and breeding law, the penal law, and the state finance law in relation to commercial gaming; and to amend the executive law, the state finance law, the executive law and the Indian law in relation to authorizing the settlement of disputes; and to amend the Indian law and the tax law in relation to identifying nations and tribes.

Purpose:

The pending concurrent resolution to amend the New York State Constitution to permit commercial gambling is not self-executing. The purpose of this bill is to provide a statutory framework for commercial gambling, should the concurrent resolution obtain second passage and be approved by the State electorate. Additionally, this bill approves and provides the authority to execute the Settlement Agreement between the Oneida Nation of New York and the State of New York entered into on the sixteenth of May, two thousand thirteen. Finally, the bill amends the Indian Law and the Tax Law related to effectuating that Settlement Agreement and to the Penal Law relating to gaming crimes.

Summary of Provisions:

Section one of the bill provides a short title to the proposed legislation which would be known as the "upstate New York gaming economic development act of 2013."

Section 2 of the bill would amend the Racing, Pari-Mutuel Wagering and Breeding Law (Racing Law) by adding a new Article 13 which would authorize and comprehensively regulate destination resort gaming. Specifically:

§1300 contains the legislative findings.

§1301 provides definitions.

§1302 authorizes the Gaming Commission (Commission) to audit gaming facilities.

§1303 requires equipment at the gaming facilities to be tested by the Commission.

§1304 requires regular reporting by the Commission.

§1305 gives broad powers to the Commission to oversee and regulate commercial gaming facilities.

§1306 authorizes the Commission or a board appointed by the Commission to select applicants who will be eligible for licensing as commercial gaming facilities.

§1307 authorizes the Commission to promulgate regulations.

§1308 requires the Commission to report its recommendations for changes in the laws governing commercial gaming.

§1309 is a severability clause.

§1310 divides the State into gaming development zones and regions. No development is authorized in zone one (downstate New York) until five years after a facility opens in zone two (upstate New York which is divided into six separate regions). No facilities are authorized for New York City.

§1311 authorizes the selection of three applicants from zone two. No more than one winning applicant can come from any single region. Regions where there are tribal gaming exclusivity zones where the gaming compact is in good standing are not eligible for facilities.

§1312 authorizes the issuance of requests for applications for commercial gaming facility licenses and subjects the application process to state procurement lobbying requirements.

§1313 provides for the form of application for the facility license.

§1314 sets standards for facility license applicants.

§1315 authorizes the establishment of a minimum capital investment requirement for the regions in zone two.

§1316 establishes minimum licensing thresholds for applicants.

§1317 requires the Commission investigate applicants for a license.

§1318 establishes disqualifying criteria for license applicants.

§1319 allows the investigatory hearings involving the facility applicants.

§1320 establishes the criteria to use in reviewing applications for facility siting.

§1321 reserved

§§1322-1325 establish criteria for the licensing and registration of facility officers and employees.

§§1326-1330 provide for the licensing of facility vendors, junket operators, labor organizations and lobbyists.

§1331 requires that a facility have a valid operation certificate before it can operate.

§1332 establishes the age of 21 as the minimum age for gambling at commercial gaming facilities.

§1333 authorizes commercial gaming facilities to be open for 24 hours.

§1334 requires commercial gaming licensees to have required internal controls in place.

§1335 places limits on where gaming equipment can be placed and exhibited.

§1336 bans key employee licensees from wagering in any commercial gaming facility in this state.

§1337 regulates tips and gratuities in facilities.

§1338 authorizes the Commission to regulate the number and location of and maximum withdrawal amounts from automated teller machines at commercial gaming facilities.

§1339 regulates the use of credit and check cashing at commercial gaming facilities.

§1340 regulates the sale and distribution of alcoholic beverages at commercial gaming facilities.

§1341 regulates leases and contracts at commercial gaming facilities.

§§1342-1345 govern the exclusion of individuals from commercial gaming facilities.

§1346 provides for certain labor peace agreements at commercial gaming facilities.

§1347 prohibits political contributions from commercial gaming facilities and commercial gaming facilities applicants to statewide elected officials, the State legislature, local officers in municipalities and counties where commercial gaming facilities are located and candidates for these offices.

§1348 places a \$500 annual assessment on each slot machine or table game at each licensed commercial gaming facility which would be used for problem gambling education and treatment.

§§1349-1350 provide for the regulatory expenses of the gaming commission.

§1351 places a 25% tax on gross gaming revenues, but a licensee as part of the bidding contractual process, can agree to pay additional funds to the State.

§1352 establishes a commercial gaming revenue fund.

§1353 authorizes the Commission to audit the sufficiency of tax payments.

§1354 provides for the treatment of unclaimed funds at a commercial gaming facility.

§1355 regulates payments by commercial gaming facilities to the racing industry.

§§1356-1361 provide for full minority and women's business enterprise participation in the gaming industry.

§1362 requires commercial gaming facilities to establish problem gambling prevention and outreach programs.

§1363 requires that advertising by commercial gaming facilities be truthful.

§1364 bans smoking in commercial gaming facilities.

§1365 establishes procedures governing conservatorships at commercial gaming facilities.

§1366 deems commercial gaming facilities as approved uses under local ordinances.

§1367 bans sports wagering unless federal law governing such wagering is amended or a court finds that law unconstitutional.

§§1368-1371 establishes the office of the Gaming Inspector General in the Commission.

Section 3 of the bill would add new gaming-related definitions to Penal Law §225.00.

Section 4 of the bill would amend the Penal Law Article 225 to create new gaming crimes.

Section 5 of the bill would amend Racing L. §109-a to establish a board that could site commercial gaming facilities.

Section 6 through 9 of the bill would amend the State Finance Law (SFL) to add payments from the Oneida Settlement Agreement to the Tribal-state compact revenue account, distribute monies from that account and otherwise distribute funds from that account to counties in the respective exclusivity zones if the constitutional referendum passes.

Section 10 of the bill would amend the SFL to create the Commercial Gaming Revenue Fund.

Section 11 of the bill would amend the Penal Law to outlaw cyber sweepstakes cafes.

Section 12 of the bill contains the legislative findings with regard to Oneida Settlement Agreement approval.

Section 13 of the bill would amend the Executive Law to authorize the Governor to execute the Oneida Agreement.

Section 14 of the bill would deem the Oneida Gaming Compact approved.

Section 15 of the bill would amend the Indian Law enumerating tribes and nations.

Section 16 of the bill would amend the Indian Law by adding a new §16, to provide that the Oneida Settlement Agreement supersedes inconsistent provisions.

Sections 17 and 18 of the bill would amend Tax Law §§ 282 and 470 to conform names of tribes and nations.

Section 19 of the bill would amend Tax Law § 1617-a to authorize additional video lottery facilities.

Sections 20 of the bill would amend Tax Law §1612.

Section 21 would amend State Finance Law §54-1 to provide for distribution of revenues from video lottery facilities to local governments.

Section 22 of the bill provides the effective date (discussed in detail below).

Existing Law:

There is no existing comprehensive regulatory framework for commercial gaming in New York.

Justification:

This comprehensive legislation is necessary to provide a statutory framework for commercial gaming, should the concurrent resolution amending the State Constitution obtain second passage and be approved by the State electorate. Without such a framework, commercial gaming cannot be conducted in New York State.

Legislative History:

This is a new bill.

Budget Implications:

Should the concurrent resolution to amend the State Constitution be approved by the electorate at referendum, it is expected the resulting fiscal impact of this enabling legislation will be positive.

Effective Dates:

The bill would take effect on the next January 1 after the date upon which commercial gaming facilities are authorized by amendment to subdivision one of section nine of article one of the state constitution except §§ 6, 7, 14 and 16 which would take effect upon the effective date of the Agreement between the Oneida Nation of New York and the State of New York entered into on May 16, 2013.

§ § 1, 3, 4, 11, 12, 13, 15, 17 and 18 would take effect immediately.

§ 8 would take effect upon the effective date of the Agreement between the Oneida Nation of New York and the State of New York entered into on May 16, 2013, or on December 31, 2016, whichever is later.

§ 1367 as added by § 2 of the bill would be effective upon a change in federal law authorizing such activity or upon the ruling of a court of competent jurisdiction that such activity is lawful.

§§19, 20, and 21 of the bill would only be effective in the event that an amendment to the State Constitution to authorize commercial gaming is defeated, and the Commission determines that a compact between the Seneca Nation of Indians and the State is not in good standing.

