

Legislative Analysis



MICHIGAN GAMING CONTROL AND REVENUE ACT REVISIONS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5881 (H-3) as reported from committee
Sponsor: Rep. Brandt Iden
Committee: Regulatory Reform
Complete to 11-28-18

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 5881 would make numerous revisions to the Michigan Gaming Control and Revenue Act, the act that regulates the three Detroit casinos. The changes would include paying members of the Michigan Gaming Control Board (MGCB) for attending board meetings, decreasing the number of vendors required to obtain a supplier license, allowing a person with a criminal conviction to be eligible for licenses under the act after a specified post-conviction time period, raising the minimum percentage of interest in a licensee or applicant that would trigger a background check, requiring an annual audit instead of a quarterly audit for suppliers, and no longer allowing the disclosure of certain information pertaining to licensees or applicants that is currently available.

FISCAL IMPACT: The bill would have fiscal implications for state and local governments. Please see **Fiscal Information**, below, for a detailed discussion.

THE APPARENT PROBLEM:

The Michigan Gaming Control and Revenue Act, which regulates the three Detroit casinos, has had few updates in the years since voters approved it as Proposal E in 1996. Since that time, much has changed in the ability of state regulators to provide oversight, some provisions considered necessary over 20 years ago have proven to be not as important as first thought, and a change in attitude regarding giving people with criminal records a second chance has swept the nation. Industry members feel that some of the unworkable or archaic provisions in the Act should be amended to reflect current business practices and trends. Legislation addressing their concerns has been offered.

THE CONTENT OF THE BILL:

Significant changes proposed by House Bill 5881 include the following:

Definitions

Several definitions in the Act would be revised. Among those with major changes are the following:

- “Junket enterprise” would be deleted.
- “Occupational license” would mean a license issued by the MGCB to a person to perform in a casino or a casino enterprise an occupation *that directly impacts the integrity of gaming and that* the MGCB has identified as requiring a license.

- “Supplier,” defined as a person requiring a license to provide casino licensees with goods or services regarding the business of a casino on a regular or continuing basis, would no longer include junket enterprises, security businesses, manufacturers, distributors, persons who service gaming devices or equipment, garbage haulers, maintenance companies, food purveyor, and construction companies.
- The level of direct or indirect interest in a casino for a person or partnership to be considered an “applicant” would be increased from 1% or less to greater than 5%.
- “Affiliate” would be shortened to mean a person who, directly or indirectly, through one or more intermediaries, controls a casino licensee under the Act.
- “Affiliated company” would mean any form of business organization that controls a casino licensee under the Act.
- “Casino” would be expanded to include a building *or buildings* in which gaming is conducted.

Direct or indirect interest in an applicant or pecuniary interest in a casino

Under the bill, persons having less than 5% (increased from 1%) direct or indirect interest in an applicant, or direct or indirect pecuniary interest in the casino, would no longer be subject to criminal history background checks or other restrictions.

Casino licensees would have to include a list annually to the MGCB of stockholders or other persons having a 5% (rather than 1%) *or greater* beneficial interest in the licensee’s gambling activities.

Michigan Gaming Control Board

In addition to being reimbursed for all actual and necessary expenses and disbursements incurred in the execution of official duties, the bill would require each member of the MGCB to be compensated in the amount of \$1,000 for each public board meeting attended, with the chairperson receiving \$1,250 for each meeting attended. Compensation would be capped at no more than 10 public meetings per calendar year.

A person could be appointed to the MGCB if he or she held a direct or indirect interest in, or had been employed by, a casino licensee during the previous *year*, rather than preceding three years.

A member of the MGCB, executive director, or *board employee* (rather than key employee) would be barred from holding an interest in, or being employed by, or contracting for services with a *casino licensee* (rather than *an applicant, person licensed or registered by the board, or a casino enterprise*) for a period of *one year* (rather than four).

A provision that currently prohibits an MGCB employee from acquiring an interest in or employment with a person licensed by the MGCB for two years after terminating employment with the MGCB would be deleted. A member, *executive director*, or board employee could represent a person or party before or against the MGCB after a period of *one year* (rather than two) after termination of his or her employment. A provision prohibiting a business entity in which a former board member or board employee as an

interest from making an appearance of representation prohibited to the former board member or employee would also be deleted.

The MGCB would be given the authority to enter into agreements with other jurisdictions to facilitate, administer, and regulate multijurisdictional gaming by casino licensees if the gaming under the agreement is conducted only in the United States.

A member, employee, or a parent, spouse, or other family members would no longer be prohibited from accepting food or drink for immediate consumption from an applicant or licensee and would not have to immediately provide written notification of that food or drink to the chairperson.

Information subject to FOIA

Any information that would disclose employment schedules, travel schedules, vehicle information, or other information that might endanger the physical safety of MGCB employees, or investigation information, would not be subject to disclosure under the Freedom of Information Act (FOIA).

The following information currently required to be provided by the MGCB upon a written request concerning an applicant or licensee; his or her products, services, or gambling enterprises; and his or her business holdings **and** required to be disclosed by a city upon request pertaining to a response to a request for proposals for development agreements would be deleted:

- Identification of any business in which an applicant's or licensee's spouse, parent, or child has equity interest of more than 5%.
- Whether an applicant or licensee had been indicted, convicted, pleaded guilty to, or forfeited bail concerning a criminal offense.
- Whether the applicant or licensee had a license or certification denied, restricted, suspended, revoked, or not renewed.
- Whether the applicant or licensee filed for bankruptcy or has ever been involved in a formal process to adjust, defer, or suspend payment of a debt.
- Whether the applicant or licensee has filed, or been served with, a complaint with a public body regarding delinquent payment of any federal, state, or local tax.
- A list of public officials or officers of any city, state, or federal body or entity and relatives of those officials who own any financial interest in, are the creditors of, or have a contractual or service relationship with an applicant or licensee.
- Whether an applicant or licensee, or his or her spouse, parent, child, or spouse of a child, had made political contributions, loans, gifts, or other payments to a candidate or officeholder elected in the state within the five years prior to filing an application. (A city would still be required to disclose this information upon request.)

The bill would also allow an applicant, licensee, or the MGCB to designate information, records, interviews, reports, correspondence, statements, memoranda, documents, or other data as confidential and thus not subject to disclosure under FOIA.

Criminal history background of casino, supplier, or occupational license applicant

The prohibition against receiving a casino, supplier, or occupational license if the applicant has been convicted of a felony or misdemeanor offense under federal law or the law of any state could be waived by the MGCB if the conviction occurred more than 10 years before application, for a felony, or five years for a misdemeanor, and the MGCB is convinced that the applicant does not pose a threat to the integrity of gaming and that the applicant otherwise meets the requirements for licensure. [Note: A conviction precedes sentencing, incarceration or probation, or release on parole or supervised release. Thus, a person may still be incarcerated or under supervision by state or federal corrections officials and yet would be eligible for consideration of receiving a casino license.]

Miscellaneous provisions

The bill would also do all of the following:

- Eliminate the authority of the MGCB to revoke or suspend a casino license or impose other disciplinary action for a violation of the Michigan Liquor Control Act or departmental rules. (The Michigan Liquor Control Act was repealed in 1998 and replaced by the Michigan Liquor Control Code.)
- Eliminate as conduct constituting a one-year misdemeanor offense knowingly violating or aiding or abetting in the violation of the provisions of Section 7b of the Act. (Section 7b pertains to prohibitions on certain political contributions.)
- Eliminate the prohibition against a casino licensee's installing, owning, or operating on the licensed premises a game played with a device that allows a player to operate the game by transferring funds electronically from a credit or debit card, and exclude a player's mobile or other personal device from the definition of "electronic funds transfer terminal."
- Eliminate a requirement that a casino licensee must immediately remove an individual confirmed as filing an affidavit to be on the disassociated persons list from the casino premises and report the incident to the county prosecutor.
- Clarify that the prohibition against casino licensees' extending credit, offering coupons, or advertising gambling operations to, or soliciting the patronage of, persons whose names are on the list of disassociated persons would not pertain to nongaming amenities such as hotels, restaurants, and event centers.
- Delete the requirement for a supplier to file a quarterly return with the MGCB listing all sales, leases, and services.
- Require each local labor organization directly representing casino gaming employees to register with the MGCB every other year rather than annually.
- Require annual, rather than quarterly, financial audits of each casino licensee and allow the licensee to transmit the audit to the MGCB and the city in which the casino is located within 90 days (rather than 30 days) after the end of the fiscal year.
- Eliminate, as grounds for denial of an occupational license, that the applicant or affiliate owns more than a 10% ownership interest in any entity holding a casino license under the Act.
- If video lottery is allowed to be conducted at horse racetracks, a casino licensee authorized to simulcast horse races under the Horse Racing Law would no longer be restricted to display and allow wagering on simulcast races only at the licensee's casino.

Repealers

The bill would repeal Sections 8a and 10 of the Act. The former section pertains to a requirement for a licensee for a casino license to post a \$1.0 million bond prior to issuance of the license. The latter requires alcoholic beverages to be sold or distributed in a casino only pursuant to the Michigan Liquor Control Act (which was repealed and replaced by the Michigan Liquor Control Code in 1998).

FISCAL INFORMATION:

House Bill 5881 revises many areas of the Michigan Gaming Control and Revenue Act and would have various fiscal implications related to the operation of the Michigan Gaming Control Board (MGCB); licensure of applicants; and the regulation, oversight, and enforcement of gaming-related activities. The fiscal implications are discussed in more detail below.

The bill would increase the cost of MGCB activities by a maximum of \$52,500 by requiring specified compensation for board members for each meeting they attend. Compensation rates would be \$1,000 for each member and \$1,250 for the chairperson for each meeting, up to a maximum of 10 meetings annually.

While the bill removes the requirement that certain statutorily specified nongaming suppliers be licensed, the MGCB would be provided discretion in determining which classes of applicants require supplier licensure. Any change in revenues to the MGCB from licensure fees would be directly related to the scope of suppliers required for licensure compared to current law. The MGCB currently charges between \$500 and \$2,500 for supplier licenses, dependent upon the total dollar amount of a supplier's business transactions with all casino licensees or casino enterprises. The annual supplier's license fee paid by all suppliers is \$5,000. Narrowing the scope of potential suppliers would also reduce oversight and investigatory costs for the MGCB by an unknown amount.

The bill would also narrow the scope of individuals required to apply for occupational licensure to those that directly impact the integrity of gaming. This provision would also lead to lower revenues from license applications and biennial license fees. The MGCB currently levies an application fee of between \$50 and \$500 and a biennial license fee of between \$50 and \$250. Narrowing the scope of individuals required to apply for occupational licensure would also reduce oversight and investigatory costs for the MGCB by an unknown amount.

The bill would eliminate the MGCB's authority to impose a disciplinary action against a casino licensee for a violation of the Michigan Liquor Control Act. It is unknown how many actions have been taken by the MGCB and what penalties were imposed for those violations. Therefore, a fiscal impact related to this bill provision is unknown.

The bill would eliminate the misdemeanor offense for violating the prohibition on political contributions by a licensee which could result in a decrease in costs for local units of government. The cost of local incarceration in county jails and local misdemeanor probation supervision vary by jurisdiction. The fiscal impact on local court systems would

depend on how the provisions of the bill affected caseloads and related administrative costs. There could also be a decrease in penal fine revenues, which would decrease funding for local libraries, which are the constitutionally designated recipients of those revenues.

ARGUMENTS:

For:

To industry stakeholders, the bill represents a needed update to the gaming law. The changes to the occupational licensing components, such as no longer automatically excluding anyone with a criminal history, could create job opportunities for a population that many employers say are hard-working, dedicated employees. No longer requiring licenses for certain vendors who service casinos, such as garbage haulers or food vendors, or no longer conducting criminal history checks on persons with less than a 1% interest in a licensee, would not impact public safety, as other checks and balances in the industry should suffice to weed out bad actors. Eliminating quarterly audits and other provisions get rid of time-consuming or unnecessary requirements that may be beneficial to businesses, especially small businesses. After more than two decades, it is understandable that time has identified what works and what needs tweaking to function well.

Against:

If those with criminal histories are eligible for licensure under the Act, there should be a sufficient period of time post-release or after all supervision has ended to prove that the person is successfully rehabilitated, rather than basing the time period on the date of conviction. Under the bill, it is conceivable that a person could get out of prison today and apply for a casino license tomorrow.

Further, the bill would no longer permit certain information regarding applicants for licensure or responses to requests for proposals to be disclosed upon written request. Since the trustworthiness and integrity of licensees can affect businesses who deal with them, and communities can be impacted by development projects, this information should be available to the public. It also is not clear why references to the Michigan Liquor Control Act were not revised to refer instead to the Michigan Liquor Control Code, which replaced the liquor act, rather than eliminating the ability of the MGCB to impose license sanctions on a casino licensee for liquor law violations and repealing the requirement that sales of alcohol in a casino be in accordance with current liquor laws.

Moreover, serving on boards is generally understood to be voluntary, with reimbursement only for actual expenses incurred in the exercise of board duties. The bill would give a generous payment, at taxpayers' expense, just for board members to do what is expected of them—attend meetings. Even though capped at payment for no more than 10 meetings a year, that is still up to \$10,000 a year per member, in addition to the normal reimbursements for actual expenses such as gas and meals and lodging, and \$12,500 for the chairperson.

POSITIONS:

The following entities indicated support for the bill on 10-3-18:

- Motor City Casino
- MGM Grand Detroit
- Michigan Chamber of Commerce
- Greektown Casino
- Detroit Chamber of Commerce

The Michigan Gaming Control Board has no position on the bill. (9-26-18)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Ben Gielczyk

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.