S T A T E O F N E W Y O R K

7351

I N S E N A T E

March 31, 2010

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT establishing the New York city off-track betting privatization act; to amend the alcoholic beverage control law, in relation to registered sports bars; to amend the racing, pari-mutuel wagering and breeding law, in relation to interactive gaming devices; making the New York city off-track betting corporation a private corporation and establishing procedures for the implementation of the transfer to a private vendor; to amend the state finance law, in relation to a New York city off-track betting corporation retiree health insurance guarantee account; and to repeal article 6 of the racing, pari-mutuel wagering and breeding law relating to the New York city off-track betting corporation

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known and may be cited as the "New York city off-track betting privatization act".

S 2. Section 3 of the alcoholic beverage control law is amended by adding a new subdivision 29-a to read as follows:

29-A. "REGISTERED SPORTS BAR" MEANS ANY ESTABLISHMENT LICENSED TO SELL ALCOHOLIC BEVERAGES AS DEFINED BY SUBDIVISION ONE OF THIS SECTION THAT MEETS THE FOLLOWING CRITERIA:

(A) THE ESTABLISHMENT IS REGISTERED WITH THE STATE LIQUOR AUTHORITY AS A SPORTS BAR;

(B) THE ESTABLISHMENT HAS AT LEAST TWO TELEVISION SCREENS THAT ARE NO LESS THAN FORTY INCHES, DIAGONALLY ACROSS THE VIEWABLE SCREEN;

(C) THE ESTABLISHMENT OFFERS PATRONS ACCESS TO TELEVISED SPORTING EVENTS INCLUDING, BUT NOT LIMITED TO, HORSE RACING AND TRADITIONAL PROFESSIONAL AND COLLEGIATE SPORTING EVENTS SUCH AS FOOTBALL, HOCKEY, BASEBALL AND BASKETBALL; AND

(D) THE ESTABLISHMENT PAYS AN ANNUAL REGISTRATION FEE OF FOUR HUNDRED DOLLARS PER INTERACTIVE GAMING DEVICE AS DEFINED IN SUBDIVISION FIVE OF

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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SECTION FIVE HUNDRED NINETEEN OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW.

A REGISTERED SPORTS BAR MAY OFFER INTERACTIVE GAMING DEVICES FOR THE PURPOSE OF PLACING WAGERS AS AUTHORIZED BY THE NEW YORK STATE RACING AND WAGERING BOARD.

S 3. Section 519 of the racing, pari-mutuel wagering and breeding law is amended by adding a new subdivision 5 to read as follows:

5. "INTERACTIVE GAMING DEVICE" MEANS A KIOSK OR SIMILAR DEVICE SUCH AS IS INSTALLED IN THE WAGERING VENUES OF THE NEW YORK CITY OFF-TRACK BETTING CORPORATION. FOR PURPOSES OF THIS SUBDIVISION, SUCH DEVICES SHALL BE DEFINED AS A SMALL PHYSICAL STRUCTURE THAT INCLUDES A COMPUTER AND AN INTERACTIVE DISPLAY SCREEN WHICH DISPLAYS INFORMATION TO USERS AND MAY ALLOW USERS TO INTERACT WITH THE COMPUTER THROUGH AN INTERFACE SUCH AS A KEYBOARD, MOUSE OR TOUCH SCREEN.

S 4. Subdivision 2 of section 17 of the alcoholic beverage control law, as amended by chapter 83 of the laws of 1995, is amended to read as follows:

2. To limit in its discretion the number of licenses of each class to be issued within the state or any political subdivision thereof, and in connection therewith to prohibit the acceptance of applications for such class or classes of licenses which have been so limited. PROVIDED HOWEVER, THAT NO PREMISES LICENSED PURSUANT TO THIS CHAPTER SHALL BE DENIED REGISTRATION AS A SPORTS BAR IF ITS LICENSE TO SELL ALCOHOL IS IN GOOD STANDING WITH THE AUTHORITY AND IT MEETS THE QUALIFICATIONS SET FORTH IN SECTION THREE OF THIS CHAPTER.

S 5. The state finance law is amended by adding a new section 97-jjjj to read as follows:

S 97-JJJJ. THE NEW YORK CITY OFF-TRACK BETTING CORPORATION RETIREE HEALTH INSURANCE GUARANTEE ACCOUNT. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT OF THE MISCELLANEOUS SPECIAL REVENUE FUND TO BE KNOWN AS THE NEW YORK CITY OFF-TRACK BETTING CORPORATION RETIREE HEALTH INSURANCE GUARANTEE ACCOUNT.

2. SUCH ACCOUNT SHALL CONSIST OF MONIES RECEIVED FROM THE ANNUAL REGISTRATION FEE ESTABLISHED PURSUANT TO SUBDIVISION TWENTY-NINE-A OF SECTION THREE OF THE ALCOHOLIC BEVERAGE CONTROL LAW.

3. MONIES FROM THIS ACCOUNT, FOLLOWING APPROPRIATION BY THE LEGISLATURE SHALL BE AVAILABLE TO THE STATE COMPTROLLER FOR THE PAYMENT OF RETIREE HEALTH BENEFITS FOR EMPLOYEES RETIRED FROM THE NEW YORK CITY OFF-TRACK BETTING CORPORATION ON OR BEFORE THE DATE THAT A VENDOR IS SELECTED TO RUN THE NEW YORK CITY OFF-TRACK BETTING CORPORATION AS A RECONSTITUTED PRIVATE ENTITY PURSUANT TO THE CHAPTER OF THE LAWS OF TWO THOUSAND TEN WHICH ADDED THIS SECTION.

S 6. Article 6 of the racing, pari-mutuel wagering and breeding law is REPEALED.

S 7. 1. Disposition of assets of the corporation. Notwithstanding any provision of law, rule or regulation to the contrary, a corporation to be known as the "New York city off-track betting corporation" is hereby established as a private corporation. Such private corporation shall receive the assets of the former New York city off-track betting corporation as defined by section 603 of the racing, pari-mutuel wagering and breeding law as it existed immediately prior to the effective date of the chapter of the laws of 2010 which added this section; provided however that such private corporation shall not be a successor in interest to the accrued liabilities of such former New York city off-track

betting corporation. The selection of an operator of such private corporation shall be governed by the process delineated in this section.

2. Provision to allow submission or amendments of proposals. For 120 days after the effective date of this act, the governor's office shall allow potential vendors to submit proposals for the acquisition and management of the assets of the New York city off-track betting corporation.

3. Selection of third party reviewer. The governor's office shall, within twenty days of the closing of the bidding process, contract with an accountancy and professional services firm, recommended by the office of the state comptroller, to review the proposals and make a recommendation for the selection of one of the potential operators by the governor, the speaker of the assembly and the temporary president of the senate. No later than ten days after the closing of the bidding process, the state comptroller shall recommend to the governor a firm to conduct the review and make recommendations from among the ten largest international accountancy and professional services firms as measured by gross revenue as reported in the most recent annual financial statements of such firms.

4. Submission for review. No later than the twenty-fifth day after the closing date of the bidding process, the governor's office shall provide to the accountancy and professional services firm selected the proposals of potential operators submitted or deemed active pursuant to this act. On the date of such transmittal, the governor's office shall reveal the names and primary places of business of each such potential operator.

5. Recommendation. Within forty days of the closing of the bidding process, the accountancy and professional services firm shall make its recommendation concerning a potential operator to be selected in accordance with the criteria established pursuant to this section. On the day that the recommendation is transmitted to the governor, the temporary president of the senate, and the speaker of the assembly, the recommendation shall be made public, along with the reasons for making the recommendation.

6. Public hearing. Within ten business days of the day on which the accountancy and professional services firm makes the recommendation, the fiscal committees of the two houses of the legislature shall conduct a joint public hearing concerning the recommendation, such hearing to be conducted in the city of Albany.

7. Selection of vendor. Not more than fifteen business days following the date of the joint public hearing, the governor, the temporary president of the senate and the speaker of the assembly shall select an operator for the newly constituted New York city off-track betting corporation.

8. Minimum bid. Minimum acceptable bid shall include a cash component. Such cash component shall be remitted in the form of a cash payment that is no less than 250 million dollars, provided that nothing shall prevent a potential operator from including a cash payment of more than 250 million dollars. Funds realized pursuant to this section shall be used to fulfill any unfunded New York city off-track betting corporation employee pension liability that may exist at the time a vendor is selected pursuant to this section.

9. Assessments. The new private corporation shall remit amounts as required by article 5 of the racing, pari-mutuel wagering and breeding law, except that such corporation shall first pay its operating expenses, employee pensions costs, health benefits and other obligations prior to remitting such assessments.

10. Workforce retention. No less than twenty percent of the workforce of the selected operator that will be charged with running the newly privatized New York city off-track betting corporation, shall be selected from employees of the former New York city off-track betting entity.

S 8. This act shall take effect on the first of the month next succeeding the date on which it shall have become a law; provided that within ninety days of the effective date of this act the state liquor authority shall adopt rules and regulations necessary for the implementation of a process for the registration of sports bars as provided in section two of this act.