STATE OF NEW YORK

3439

2021-2022 Regular Sessions

IN ASSEMBLY

January 26, 2021

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Racing and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to disclosing certain information prior to qualifying for any deduction in taxation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings. The legislature hereby finds and declares that the intent of the upstate New York gaming economic development act of 2013 was to aid the economic development of upstate New York by increasing employment opportunities and investment into these host communities. The legislature further finds that public resources ought not be used to assist gaming facilities. Any assistance to gaming facilities must be conditioned on full financial disclosure and an independent audit of the gaming facilities in order to show how this assistance would be necessary to benefit and protect the workforce of the gaming facilities and the host municipality and nearby municipalities of each gaming facility. Any assistance shall prevent self-dealing by the officers and shareholders of the gaming facility and shall not be utilized to unduly benefit or enrich the officers, shareholders, investors, and lenders of any gaming facility, its holding company, intermediary companies, subsidiaries, or affiliates.

§ 2. Section 1351 of the racing, pari-mutuel wagering and breeding law is amended by adding 3 new subdivisions 3, 4 and 5 to read as follows:

3. Before being eligible to apply for and qualify for any deduction in taxes under this section, or any other public assistance or benefits, a gaming facility shall disclose the following information to the commission:

(a) the names and payments made to all casino key employees in excess of one hundred thousand dollars for calendar year two thousand nineteen to present;

(b) the names and payments made to all independent contractors in excess of one hundred thousand dollars for calendar year two thousand nineteen to present;

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

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(c) all payments in excess of one hundred thousand dollars to investors, casino vendor enterprises, junket enterprises, close associates, and affiliates for calendar year two thousand nineteen to present;

(d) all payments in calendar year two thousand nineteen to present made to the board of directors, or to the board of directors of its holding company, intermediary companies, subsidiaries, affiliates or close associates; and

(e) all contractual arrangements for debt and encumbrances entered into by the gaming facility, its holding company, close associates, intermediary companies, subsidiaries or affiliates which provide financing for the construction, repair, maintenance and operation of the gaming facility.

Notwithstanding any law to the contrary, all disclosures made to the commission pursuant to paragraphs (a), (b), (c), (d) and (e) of this subdivision shall be made fully available by the commission for public review and inspection.

4. Before being eligible to apply for and qualify for any deduction in taxes under this section, or any other public assistance or benefits, a gaming facility shall further disclose and make available to the commission all quarterly financial reports and the annual audit required to be filed, pursuant to paragraph (o) of subdivision two of section thirteen hundred seven of this article for the twelve months prior to the effective date of this subdivision. Notwithstanding any law to the contrary, such reports and audits shall be made fully available by the commission for public review and inspection.

5. Before being eligible to apply for and qualify for any deduction in taxes under this section, or any other public assistance or benefits, the gaming facility shall agree to the appointment of an independent financial monitor selected by the gaming commission. The monitor's salary and expenses shall be paid by the gaming facility. The monitor shall have access to all the financial records of the gaming facility and shall report its findings to the commission. Notwithstanding any laws to the contrary, the reports of the monitor shall be made fully available for public review and inspection. The monitor's duties shall terminate on February first, two thousand twenty-three. The monitor shall have the following duties:

(a) issue biannual reports commencing with a report at the conclusion of the two thousand twenty-one calendar year;

(b) publish in such reports the information required by subdivision three of this section for calendar years two thousand twenty-one and two thousand twenty-two;

(c) report on any material weakness in accounting, internal controls, and business and management practices at the gaming facility;

(d) review and make recommendations concerning the gaming facility's operating revenues and the establishment of a financial plan;

(e) review such gaming facility's overall compliance with the laws, rules and regulations applicable to its activities;

(f) monitor the hiring of gaming employees at the gaming facility; the monitor shall notify the commission any time that the number of gaming employees is lower than ninety-five percent of the number that were on staff at the gaming facility on the effective date of this subdivision; and

(g) evaluate the overall financial position of the gaming facility.

§ 3. This act shall take effect immediately.