

# STATE OF NEW YORK

10338

## IN ASSEMBLY

May 17, 2024

Introduced by COMMITTEE ON RULES -- (at request of 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 the acceleration of the downstate casino licenses

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

1 Section 1. Subdivision 7 of section 109-a of the racing, pari-mutuel  
2 wagering and breeding law, as amended by section 9 of part RR of chapter  
3 56 of the laws of 2022, is amended to read as follows:

4 7. Utilizing the powers and duties prescribed for it by article thir-  
5 teen of this chapter, the board shall select, through a competitive  
6 process consistent with provisions of article thirteen of this chapter,  
7 not more than seven gaming facility license applicants. Such selectees  
8 shall be authorized to receive a gaming facility license, if found suit-  
9 able by the commission. The board may select another applicant for  
10 authorization to be licensed as a gaming facility if a previous selectee  
11 fails to meet licensing thresholds, is revoked or surrenders a license  
12 opportunity. For the purposes of title two-a of article thirteen of  
13 this chapter, such selection shall take place on or before March thir-  
14 ty-first, two thousand twenty-five.

15 § 2. Section 1321-a of the racing, pari-mutuel wagering and breeding  
16 law is amended by adding a new subdivision 4 to read as follows:

17 4. As a condition of licensure, licensees shall be required to present  
18 evidence of compliance and approval with all required state and local  
19 zoning requirements as required under subdivision three of this section  
20 and section thirteen hundred twenty-one-k of this title no more than  
21 twenty-four months following license award.

22 § 3. Section 1321-b of the racing, pari-mutuel wagering and breeding  
23 law, as added by section 7 of part RR of chapter 56 of the laws of 2022,  
24 is amended to read as follows:

25 § 1321-b. Requests for applications. 1. Requests for applications  
26 shall be handled in the same manner as provided for in section thirteen  
27 hundred twelve of this article for gaming licenses authorized but not  
28 awarded, provided however that any requests for applications for gaming

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

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1 facility licenses authorized but not awarded may be for gaming facility  
2 licenses in any region in zone one or in regions one, two and five in  
3 zone two.

4 2. All applications under this section must be submitted by July thirty-  
5 ty-first, two thousand twenty-four, at which point the board shall imme-  
6 diately commence the preliminary review of such applications. Such  
7 preliminary review shall determine if the application is sufficient to  
8 be delivered to the appropriate community advisory committee within  
9 thirty days of receipt of the applications. The board shall have the  
10 authority to communicate with the applicant during the preliminary  
11 review, to the extent necessary to resolve any clarifications required  
12 from the applicant. To be deemed sufficient by the board, applicants  
13 shall include the following information:

14 (a) capital investment;

15 (b) revenues received by the state and localities;

16 (c) number of jobs created by the gaming facility;

17 (d) details relating to the variety of amenities created by the facil-  
18 ity;

19 (e) benefits of the site location of the gaming facility and an esti-  
20 imated recapture rate of gaming-related spending by residents travelling  
21 to an out-of-state gaming facility;

22 (f) construction schedule to completion of the full gaming facility;

23 (g) mitigation impacts on host and nearby municipalities undertaken by  
24 applicant;

25 (h) partnerships with local hotels, restaurants, and retail facili-  
26 ties;

27 (i) partnerships with live entertainment venues;

28 (j) workforce development plan, including utilization of the existing  
29 labor force, estimated number of construction jobs the facility will  
30 generate, development of workforce training programs that serve the  
31 unemployed and methods for accessing employment at the gaming facility;

32 (k) measures taken to address problem gambling;

33 (l) utilization of sustainable development principles;

34 (m) human resource hiring and training practices that promote a  
35 skilled and diverse workforce and access to promotion opportunities;

36 (n) workforce training program;

37 (o) number of employees to be employed at the gaming facility, includ-  
38 ing detailed information on the pay rate and benefits for employees and  
39 contractors in the gaming facility and all infrastructure improvements  
40 related to the project;

41 (p) detailed plans for assuring labor harmony during the phases of the  
42 construction, reconstruction, renovation, development and operation of  
43 the gaming facility; and

44 (q) workforce demographics including diversity framework factors.

45 3. Upon completion of the board's preliminary review, the board shall  
46 provide the applicant with written notice of its determination. Where  
47 the board determines that the application is not sufficient for delivery  
48 to the community advisory board, the board must provide the applicant,  
49 in writing, the reasons for such determination. The applicant shall have  
50 twenty-one days from receipt of the written notice to amend their appli-  
51 cation and resubmit to the board in the same manner as the original  
52 application. The board shall then have seven days to review the amended  
53 application and issue a final determination on sufficiency.

54 § 4. Subdivision 3 of section 1321-d of the racing, pari-mutuel wager-  
55 ing and breeding law, as added by section 7 of part RR of chapter 56 of

1 the laws of 2022, is amended and a new subdivision 5 is added to read as  
2 follows:

3 3. (a) For each applicant who proposes a gaming facility located in  
4 region two of zone one, there shall be established a community advisory  
5 committee, which shall be established within thirty days of receipt of  
6 an application by the board. Each committee shall consist of six  
7 members, one to be appointed by the governor, one to be appointed by the  
8 senator representing the senate district where the proposed facility is  
9 to be located, one to be appointed by the assemblymember representing  
10 the assembly district where the proposed facility is to be located, one  
11 to be appointed by the borough president where the facility is proposed  
12 to be located, one to be appointed by the city councilmember represent-  
13 ing the district where the facility is proposed to be located, and one  
14 to be appointed by the New York city mayor.

15 (b) For each applicant who proposes a gaming facility located in  
16 regions one or three of zone one, or regions one, two or five of zone  
17 two there shall be established a community advisory committee, which  
18 shall be established within thirty days of receipt of an application by  
19 the board. Each committee shall consist of five members, one to be  
20 appointed by the governor, one to be appointed by the senator represent-  
21 ing the senate district where the proposed facility is to be located,  
22 one to be appointed by the assemblymember representing the assembly  
23 district where the proposed facility is to be located, one to be  
24 appointed by the county executive of the county where the facility is  
25 proposed to be located, and one to be appointed as follows:

26 (i) If the proposed facility is to be located in a city, one to be  
27 appointed by the mayor of such city;

28 (ii) If the proposed facility is to be located in a town, one to be  
29 appointed by the town supervisor of such town; or

30 (iii) If the proposed facility is to be located in a village, one  
31 representative to be appointed jointly by the village mayor and the town  
32 supervisor.

33 (c) The activities of the community advisory committees constituted  
34 pursuant to this subdivision shall be subject to the open meetings  
35 provisions contained in article seven of the public officers law.

36 (d) The commission [~~may~~] shall hire a consultant to serve as a commu-  
37 nity consultant to assist and manage the community advisory committee  
38 process. The commission or community consultant shall provide adminis-  
39 trative support and technical assistance for the establishment and  
40 activities of committees constituted pursuant to this subdivision,  
41 provided, however, that such consultant shall be hired by July 31, 2024.

42 (e) Prior to a determination on any application by the board, the  
43 following community advisory committee process shall apply:

44 (i) [~~Upon the majority of members of the board being appointed~~] by  
45 July thirty-first, two thousand twenty-four, a community consultant  
46 [~~may~~] shall be hired by the commission to manage the process and any  
47 other activities as determined by the commission;

48 (ii) [~~the commission shall issue a request for applications no later~~  
49 ~~than ninety days following the majority of members of the board being~~  
50 ~~appointed;~~

51 ~~(iii)]~~ interested entities may submit an application to the board by  
52 July thirty-first, two thousand twenty-four, who shall provide such  
53 application to the community consultant and the community advisory  
54 committee, immediately upon a finding that such application is suffi-  
55 cient for review;

1     ~~[(iv)]~~ (iii) the community consultant shall notify the commission of  
2 all applications and notify the appropriate appointing authorities of  
3 their responsibility to submit appointments for each required community  
4 advisory committee established pursuant to this section, provided,  
5 however, such appointments shall be made within thirty days of the  
6 receipt of an application by the board;

7     ~~[(v)]~~ (iv) the community consultant shall ensure the formation of each  
8 committee within thirty days of receiving an application, as necessary;

9     ~~[(vi)]~~ (v) upon notification, the appointing authority shall appoint  
10 their respective appointees within thirty days of the receipt of an  
11 application by the board;

12     ~~[(vii) upon a committee's first meeting the respective appointees~~  
13 ~~shall elect by majority vote a committee chair;~~

14     ~~[(viii)]~~ (vi) the community consultant shall assign applications to  
15 each appropriate committee immediately upon the board's determination  
16 that such application is sufficient;

17     ~~[(ix)]~~ (vii) each committee's first meeting shall take place within  
18 seven days of receiving an application, and upon a committee's first  
19 meeting the respective appointees shall elect by majority vote a commit-  
20 tee chair;

21     (viii) each committee shall review, solicit public comments and writ-  
22 ten submissions of such comments, and hold public hearings;

23     ~~[(x)]~~ (ix) upon a two-thirds vote, each committee shall issue a find-  
24 ing either establishing public support approving or disapproving the  
25 application within one hundred twenty days of formation of the community  
26 advisory committee.

27     (f) Following a two-thirds vote by the applicable community advisory  
28 committee, the following shall apply:

29     (i) ~~[Upon notification of a finding of support in approval of an~~  
30 ~~application following a two-thirds vote by the appropriate committee,~~  
31 the community ~~[consultant]~~ advisory committee shall notify the appli-  
32 cant, board, and commission immediately upon a finding of support or  
33 approval following a two-thirds vote by the appropriate committee;

34     (ii) ~~[following such notification,~~ the applicant must comply and  
35 receive approval under the applicable state and local zoning require-  
36 ments;

37     (iii) the board ~~[shall not]~~ may issue a decision ~~[on the]~~ approving an  
38 application ~~[until the applicant presents]~~ only upon sufficient evidence  
39 ~~[of compliance and approval with]~~ presented by the applicant that all  
40 necessary state and local zoning requirements are being complied with  
41 and such approval is likely to be granted if an award is issued, and  
42 upon a determination that the applicant is able to satisfy the commit-  
43 ments it made to the community advisory committee, and which were  
44 approved by such committee, with regard to the relevant requirements  
45 established pursuant to paragraph (a) of subdivision three of section  
46 thirteen hundred twenty-one-k of this title.

47     5. The board shall complete a review of all applications and make  
48 recommendations for licensing up to three applicants to the commission  
49 prior to March thirty-first, two thousand twenty-five. If no applicant  
50 meets the requirements or receives all required state and local zoning  
51 requirements as required under section thirteen hundred twenty-one-d and  
52 section thirteen hundred twenty-one-k of this title, as of March thir-  
53 ty-first, two thousand twenty-five, the board is authorized to grant a  
54 single extension of the deadline. Such extension shall not exceed six  
55 months beyond March thirty-first, two thousand twenty-five. All license  
56 fees due to the commission must be transferred to the commission by June

1 thirtieth, two thousand twenty-five, except in the case of a subsequent  
2 request for applications issued pursuant to subdivision three of section  
3 thirteen hundred twenty-one-k of this title, in which case such license  
4 fees shall be due upon expiration of the eighteen months so specified in  
5 such subdivision.

6 § 5. Subdivision 2 of section 1321-e of the racing, pari-mutuel wager-  
7 ing and breeding law, as added by section 7 of part RR of chapter 56 of  
8 the laws of 2022, is amended as follows:

9 2. Each applicant shall submit its proposed capital investment with  
10 its application to the board which shall include stages of construction  
11 of the gaming facility and the deadline by which the stages and overall  
12 construction and any infrastructure improvements will be completed in  
13 accordance with all required state and local zoning requirements as  
14 required under section thirteen hundred twenty-one-d and section thir-  
15 teen hundred twenty-one-k of this title. In awarding a license, the  
16 commission shall determine at what stage of construction a licensee  
17 shall be approved to open for gaming; provided, however, that a licensee  
18 shall not be approved to open for gaming until the commission has deter-  
19 mined that at least the gaming area and other ancillary entertainment  
20 services and non-gaming amenities, as required by the board, have been  
21 built and are of a superior quality as set forth in the conditions of  
22 licensure. The commission shall not approve a gaming facility to open  
23 before the completion of the permanent casino area.

24 § 6. Section 1321-k of the racing, pari-mutuel wagering and breeding  
25 law is amended by adding a new subdivision 3 to read as follows:

26 3. (a) Notwithstanding any provision of this section to the contrary,  
27 where the board evaluates and makes a determination that the objectives  
28 of section thirteen hundred twenty-one-j of this title are met and the  
29 application reflects the state's desire to create gaming facilities of  
30 the highest caliber, the board may make an award absent completion of  
31 all required state and local zoning requirements as required under  
32 section thirteen hundred twenty-one-d and this section; provided howev-  
33 er, that the board may only issue an award contingent upon an applicant  
34 meeting certain requirements as proposed to and approved by such appli-  
35 cant's community advisory committee, which shall include but not be  
36 limited to, a minimum number of hotel rooms if the proposal includes a  
37 hotel component, a minimum number of slot machines if the proposal  
38 includes slot machines, a minimum number of table games if the proposal  
39 includes table games, commitments with regard to community benefits if  
40 the proposal makes such commitments, commitments with regard to the  
41 construction and/or maintenance of ancillary facilities if the proposal  
42 makes such commitments, commitments with regard to specific goals for  
43 the utilization of minorities, women, and veterans on construction jobs  
44 if the proposal makes such commitments, commitments with regard to  
45 investments in public safety if the proposal makes such commitments,  
46 commitments with regard to workforce training programs if the proposal  
47 makes such commitments, commitments with regard to organized labor and  
48 labor harmony if the proposal makes such commitments, and any other  
49 requirements the commission may establish as requirements that may not  
50 deviate from what is approved by the community advisory committees; and  
51 provided further, that any applicant whose gaming facility does not (i)  
52 comply with the commitments proposed to and approved by the community  
53 advisory committees, except any such commitments that pertain to ongoing  
54 and long-term obligations, and (ii) satisfy all required state and local  
55 zoning requirements, within twenty-four months of license approval,  
56 shall have their license rescinded and a subsequent request for applica-

1 tions shall be issued pursuant to this title for any remaining licenses;  
2 and provided further, that any such licenses issued pursuant to such  
3 subsequent request for applications shall receive final decisions from  
4 the commission within eighteen months of such request.

5 (b) Where the board takes such action pursuant to paragraph (a) of  
6 this subdivision to approve a license prior to all required state and  
7 local zoning requirements being satisfied, the award shall be subject to  
8 public presentations by the applicant, wherein the applicant describes  
9 the reasons that the required state and local zoning requirements have  
10 not yet been met. The applicant must also provide sufficient evidence  
11 that all required state and local zoning requirements shall be satis-  
12 fied, and all required commitments made to and approved by the community  
13 advisory committees shall be satisfied, within twenty-four months  
14 following a license award.

15 § 7. This act shall take effect immediately.