STATE OF NEW YORK

9673

IN SENATE

May 17, 2024

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming 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 Assembly, do enact as follows:

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

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

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

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

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

§ 1321-b. Requests for applications. **1.** Requests for applications shall be handled in the same manner as provided for in section thirteen hundred twelve of this article for gaming licenses authorized but not

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

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awarded, provided however that any requests for applications for gaming facility licenses authorized but not awarded may be for gaming facility licenses in any region in zone one or in regions one, two and five in zone two.

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

(a) capital investment;

(b) revenues received by the state and localities;

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

(d) details relating to the variety of amenities created by the facility;

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

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

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

(h) partnerships with local hotels, restaurants, and retail facilities;

(i) partnerships with live entertainment venues;

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

(k) measures taken to address problem gambling;

(l) utilization of sustainable development principles;

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

(n) workforce training program;

(o) number of employees to be employed at the gaming facility, including detailed information on the pay rate and benefits for employees and contractors in the gaming facility and all infrastructure improvements related to the project;

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

(q) workforce demographics including diversity framework factors.

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

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

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

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

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

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

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

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

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

(d) The commission [~~may~~] **shall** hire a consultant to serve as a community consultant to assist and manage the community advisory committee process. The commission or community consultant shall provide administrative support and technical assistance for the establishment and activities of committees constituted pursuant to this subdivision**, provided, however, that such consultant shall be hired by July 31, 2024**.

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

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

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

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

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

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

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

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

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

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

(viii) each committee shall review, solicit public comments and written submissions of such comments, and hold public hearings;

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

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

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

(ii) [~~following such notification,~~] the applicant must comply and receive approval under the applicable state and local zoning requirements;

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

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

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

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

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

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

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

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

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

§ 7. This act shall take effect immediately.