



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

2012 Special Session 2

August 9-15, 2012

GUBERNATORIAL EXECUTIVE ORDER

Governor Martin O'Malley's Executive Order 01.01.2012.16, dated August 8, 2012, called for a special session of the General Assembly of Maryland to convene on August 9, 2012, to consider expanded gaming in the State. Issued under Article II, Section 16 of the Maryland Constitution, the Executive Order states the Governor's belief that, "By finally resolving this issue of gaming in Maryland, we have an opportunity to provide significant additional funding for our number one ranked public schools, create more than 2,000 additional permanent jobs, and keep Maryland's facilities competitive with surrounding states."

BILL INTRODUCTIONS

On Thursday, August 9, the Senate convened for organizational purposes and introduction of legislation. The House of Delegates convened for the same purposes on August 10. During the special session, a total of 37 bills were introduced, 22 in the Senate and 15 in the House. Of these bills, the General Assembly focused primarily on [SB 1](#), the Administration bill introduced by the President of the Senate on behalf of the Governor that, as amended and passed, responded to the issue of expanded gaming in Maryland.

FINAL PASSAGE AND ENACTMENT OF GAMING LEGISLATION

On Tuesday, August 14, the House of Delegates passed [SB 1](#) with numerous committee and floor amendments. The Senate then concurred with the House amendments, passed [SB 1](#), and adjourned *sine die* shortly after midnight. On Wednesday, August 15, the Governor signed [SB 1](#) as Chapter 1 of the Acts of the 2012 Second Special Session. The new law, entitled Gaming Expansion – Video Lottery Terminals and Table Games – Lottery Machines – Veterans' Organizations, makes a variety of changes to the State gaming laws. As enacted, the law contains some provisions that will be submitted to a referendum at the November 2012 general election. Other provisions of the legislation are not subject to referendum. Most provisions of the law take effect

October 1, 2012, some of which are contingent on passage of the referendum. Certain provisions related to distribution of gaming proceeds take effect upon issuance of a license for a facility in Prince George's County.

GAMING LEGISLATION

Voter Referendum Question

Language, as provided in [SB 1/Ch. 1](#), that will appear on the November general election ballot for voter approval asks the following question:

Do you favor the expansion of commercial gaming in the State of Maryland for the primary purpose of raising revenue for education to authorize video lottery operation licensees to operate "table games" as defined by law; to increase from 15,000 to 16,500 the maximum number of video lottery terminals that may be operated in the State; and to increase from 5 to 6 the maximum number of video lottery operation licenses that may be awarded in the State and allow a video lottery facility to operate in Prince George's County?

Language in [SB 1/Ch. 1](#) further provides that if a majority of the votes cast statewide are against the additional forms and expansion of commercial gaming, the section of [SB 1/Ch. 1](#) pertaining to the question is null and void. Additionally, if a majority of the voters in Prince George's County voting on the question vote against the gaming expansion, it is the intent of the General Assembly that the Video Lottery Facility Location Commission be prohibited from awarding a video lottery operation license for a facility in the county.

Authorization of a Video Lottery Facility License in Prince George's County

If approved by the voters of the State and in Prince George's County, video lottery terminal (VLT) operations in Prince George's County may not begin before the earlier of July 1, 2016, or 30 months after the video lottery facility in Baltimore City is open to the public. An applicant for a Prince George's County

facility may have more than 18 months, but not more than 30 months, to build a permanent VLT and table games facility. The geographic area specified for the facility includes both National Harbor and Rosecroft Raceway. A video lottery facility in Prince George's County may not begin VLT or table game operations in a temporary facility or in a structure, including a hotel or conference center, that exists on August 15, 2012.

Upon the issuance of a license for a Prince George's VLT facility, there is a guaranteed additional allowance of 8% for the Anne Arundel County licensee and 7% for the Baltimore City licensee for capital improvements and marketing costs, with another adjustment allowable for those licensees and for the Cecil County licensee that is based on evaluation criteria and that would become effective no earlier than July 1, 2019.

Further provisions address the distribution of VLT local impact grants going to Anne Arundel County and Baltimore City and local grant assistance to jurisdictions with smaller VLT facilities (Allegany County, Cecil County, Town of Perryville, and Worcester County) upon the issuance of a license for Prince George's County. Also, a current holder of a video lottery operation license may apply for an additional video lottery operation license, provided that there is a plan for divesting from the video lottery operation license held at the time of the application. Contingent on passage of the referendum, the legislation authorizes a video lottery facility to operate 24 hours a day, 7 days a week.

Authorization of Table Games

If table games are approved at referendum for both current and future VLT licensees, the State Lottery and Gaming Control Commission is authorized to immediately begin the regulatory process for implementation of table games, defined as roulette, baccarat, blackjack, craps, and other such games. The State's Education Trust Fund will receive 20% of table game revenues. Upon opening of a facility in Prince George's County, revenues from table games at each facility would be split 80% to the licensee, 5% to each affected jurisdiction, and 15% to the Education Trust Fund. Of the table game revenues distributed to Baltimore City, 50% must be used for school construction projects and 50% for the maintenance, operation, and construction of recreational facilities.

Provisions Not Subject to Referendum or Contingencies

Some of the additional changes related to gaming in Maryland made by [SB 1/Ch. 1](#) include:

- reconstitution of the State Lottery Commission as the State Lottery and Gaming Control Commission to assume the current regulatory and licensing duties

of the former Commission. Subject to the advice and consent of the Senate, the Governor is to appoint seven commissioners with expertise and credentials as specified in the law. At least one member must reside in a local jurisdiction with a video lottery facility. The President of the Senate and Speaker of the House may recommend to the Governor a list of individuals for appointment to the Commission. The Video Lottery Facility Location Commission will continue to award video lottery operation licenses;

- authorization for the State Lottery and Gaming Control Commission to issue to qualifying veterans organizations in certain counties a license for up to five instant ticket lottery (pull-tab) machines. (The Senate unanimously passed a similar measure during the 2012 regular session);
- requirement that the State Lottery and Gaming Control Commission adopt regulations that prohibit automated teller machines located in VLT facilities from accepting electronic benefit cards, debit cards, or similar instruments issued by the Department of Human Resources for the purposes of accessing temporary cash assistance;
- transition of VLT procurement from the State to licensees. Savings to the State that results from shifting VLT ownership to the licensees will be appropriated to the Education Trust Fund. Upon ownership of the VLTs, the Anne Arundel County, Baltimore City, Prince George's County, and Cecil County licensees will receive an additional percentage of the distribution of the VLT revenue;
- provision of additional minority business enterprise and local business involvement and hiring requirements for VLT licensees/awardees and provision for higher education institutions to partner with VLT licensees for job training programs related to gaming and hospitality industries;
- expansion of the uses of the Education Trust Fund to include funding to expand public early childhood education programs in the State;
- alteration of State election law relating to campaign contributions by a person who owns or holds interest in the operation of a video lottery facility in the State to a campaign finance entity or candidate for a nonfederal public office in the State;
- requirement that regulated lobbyists report expenditures related to the Second Special Session by September 17, 2012;
- increase of lottery agent commissions from 5% to 5.5% on January 1, 2013, and to 6% upon issuance

of a video lottery operation license for Baltimore City; and

- establishment of a legislative Joint Committee on Gaming Oversight to examine the status of the State's gaming program and the implementation of new laws relating to gaming, with a report due before December 31 of each year. Membership shall include at least one senator and one delegate from the minority party.

OTHER ACTIONS DURING THE SPECIAL SESSION

Consideration of Vetoed Legislation

The Maryland Constitution requires that bills vetoed by the Governor after the adjournment of a session must be returned to the respective chambers of the General Assembly in the beginning of the next session. The General Assembly may override a gubernatorial veto with a vote of three-fifths of the members of each chamber. Early during the second special session of 2012, the General Assembly sustained all of the gubernatorial vetoes of legislation from the 2012 regular session.

Civil Actions – Liability for Personal Injury or Death Caused by Dog

Both the Senate and House passed an emergency measure, [SB 2](#), but with different language which was not resolved before adjournment *sine die*. The legislation responded to and would have abrogated the recent ruling by the Maryland Court of Appeals that modified the common law rule relating to attacks by pit bulls and mixed-breed pit bulls against humans. The ruling established a strict liability standard with respect to the owning, harboring, or control of such dogs. That court ruling has been stayed pending the outcome of an appeal but could take effect at any time.

Local Measures – Dorchester, Carroll, and Harford Counties

The Senate passed two bills concerning local gaming activities, but the House did not consider the measures. [SB 10](#) would have repealed the prohibition on holding an authorized game or carnival on a Sunday in Dorchester County and [SB 19](#) would have authorized the Carroll County Board of County Commissioners to issue a permit to conduct a card game, card tournament, or casino night to a list of qualified organizations. The bill would also have created in Harford County a permit to be issued by the County Sheriff that authorizes certain nonprofit organizations to conduct a gaming contest in the county.