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Gaming Law



AN ANALYSIS OF THE ILLINOIS GAMING EXPANSION BILL

Introduction

This Special Report provides an overview of the most significant provisions of Illinois Senate Bill 744 (“SB744”), commonly referred to as the “Gaming Expansion Bill.” The Illinois General Assembly passed SB744 on May 31, 2011. At passage, President of the Senate, John Cullerton, filed a motion to reconsider that has the effect of delaying the beginning of the 30-day time limit within which the bill must be sent to the Governor for his signature. As of the date of this Special Report, July 2011, discussions are under way between legislature leaders, bill sponsors and the Governor to arrive at an agreement, if possible, on the ultimate scope of the bill. Nonetheless, this Special Report summarizes all the significant changes to current law by SB744 in four main categories:

- amendments to the Riverboat Gambling Act affecting riverboat and casino law;
- amendments to the Illinois Horse Racing Act of 1975 and the Riverboat Gambling Act affecting horse racetrack law;
- changes to privilege tax rates; and
- amendments to the Video Gaming Act affecting video gaming law.

Special Report

AN ANALYSIS OF THE ILLINOIS GAMING EXPANSION BILL



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RIVERBOAT AND CASINO LAW

SB744 amends the Riverboat Gambling Act by renaming the Act as the Illinois Gambling Act (“Gambling Act”). In addition, it amends the Gambling Act in several key ways by: (a) establishing the Chicago Casino Development Authority (“CCDA”); (b) creating a Chicago casino; (c) authorizing a casino operator licensee to operate the Chicago casino; (d) creating four new (additional) riverboats or casinos; (e) increasing gaming positions for all riverboats and casinos; (f) creating new application requirements for riverboat or casino licenses; (g) allowing riverboats to convert to land-based casinos; (h) creating new Illinois Gaming Board (“IGB”) member requirements and restrictions; and (i) requiring diversity programs.

(A) SB744 Establishes the CCDA

SB744 establishes the CCDA for the purpose of licensing the CCDA to own a casino located in the City of Chicago. To accomplish this, SB744 creates a Board for the CCDA and imposes ethical requirements on Board members and CCDA employees. In addition, SB744 grants the CCDA borrowing powers and imposes requirements on entities wishing to contract with the CCDA.

(i) The Chicago Casino Development Board (“Chicago Board”)

SB744 creates the Chicago Board, a five-member board that will govern and control the CCDA. The Mayor of Chicago will appoint five residents of Chicago to serve on the Board. In addition, the IGB must approve each member, and each member must pass a background check. Each member of the Chicago Board will hold his/her office for five years, with the possibility of serving consecutive terms. However, either the Mayor of Chicago or the IGB may remove a Chicago Board member for various reasons. Once established, the Chicago Board will select an executive director to lead the CCDA’s daily operations.

(ii) Ethical Requirements of the Chicago Board and CCDA Employees

SB744 provides that the Chicago Board members and CCDA employees must follow certain ethical rules. Neither Chicago Board members nor CCDA employees may gamble within Illinois. Also, both groups must disclose all other employment and cannot obtain other employment that will create a conflict with their duties to the CCDA. SB744 also prevents any Chicago Board member or CCDA employee, or any of their family members, from holding a financial interest in any entity that contracts with the CCDA. Furthermore, Chicago Board members must disclose to the IGB any communications they have with Chicago city officials. Additionally, no elected officials, Chicago Board members or CCDA employees may receive fees related to the CCDA issuing bonds. Finally, if Chicago Board members or CCDA employees violate an ethical requirement, they commit a felony under Illinois law.

(iii) Borrowing Powers of the CCDA

The CCDA may authorize the issuance of bonds by a resolution in order to acquire land for the site and construct a casino, as well as make later improvements. The CCDA must sell a minimum of 25 percent of these bonds through a public bid. Neither the State of Illinois nor the Chicago Board is liable for payment on the CCDA’s bonds. However, the State of Illinois pledges not to limit the CCDA’s power in the future to prevent it from fulfilling the terms

of its contracts. Furthermore, the CCDA may enter into derivative contracts. Additionally, the CCDA must create a program with a goal of paying at least 30 percent of its fees for contracts related to issuing bonds to female- or minority-owned businesses.

(iv) Requirements for Contracting with the CCDA

SB744 contains two requirements for contracting with the CCDA: (a) disclosure requirements and (b) a competitive selection process.

a. Disclosure Requirements

SB744 requires any entity or person bidding or offering to contract with the CCDA to disclose the identities of its officers, directors and owners with more than a 1 percent ownership interest. In addition, the person or entity making a bid or offer to the CCDA for a contract with more than a \$10,000 annual value must disclose its political contributions for the past two years. If the person or entity violates either of these requirements, the IGB has the power immediately to void the contract.

b. Competitive Selection Process

The CCDA must complete a competitive selection process for all contracts over \$25,000 related to construction or for supplies, materials, equipment or services. Furthermore, the CCDA must complete a competitive selection process for all contracts under \$25,000 whenever possible. However, SB744 exempts several types of contracts from this requirement, including contracts for professional services and casino management. When selecting a contractor, the CCDA may also consider other factors beyond the bid price of a potential contractor. To award a contract to a potential contractor other than the lowest bidder, at least two Chicago Board members must vote to approve the contract and must file a publicly available written statement of their reasons.

(B) SB744 Creates a Chicago Casino

SB744 provides for the IGB to issue an owner's license to the CCDA, permitting the CCDA to own a land-based casino or riverboat located in the City of Chicago or on Lake Michigan. The license issued to the CCDA will not expire, but it will be subject to the provisions of the Gambling Act and IGB rules. The CCDA may operate the casino at a temporary location for 24 months. In addition, the IGB in its discretion may extend the time period after holding a public hearing on the matter.

SB744 also permits the CCDA to conduct slot machine gaming operations in Chicago airports under the administration of the Chicago Department of Aviation. SB744 limits gaming operations in airports to secured areas accessible only to passengers. In addition, the number of gaming positions at the Chicago casino and in Chicago airports may not exceed a combined total of 4,000 gaming positions. For these gaming positions, the CCDA must pay an initial fee of \$100,000 plus \$25,000 per gaming position. However, the CCDA does not have to pay a license renewal fee because its license does not expire.

(C) SB744 Authorizes a Casino Operator Licensee to Operate the Chicago Casino Pursuant to a Competitive Bidding Process

SB744 provides that a casino operator licensee will operate and manage the CCDA's gambling operations. The CCDA will select a casino operator licensee to operate and manage the Chicago casino through a competitive bidding process. In addition, the IGB must grant a license to a casino operator licensee before it may begin operating the Chicago casino. SB744 prohibits certain applicants from obtaining a casino operator license using the same criteria found in the current Riverboat Gambling Act that prohibits one from obtaining an owner's license to operate a riverboat gambling operation.

In determining whether to grant a casino operator license, the IGB will consider substantially the same factors that it currently considers for a riverboat owner's license applicant. However, when determining whether to grant a casino operator license, the IGB must also consider the preference of the municipality in which the potential

licensee will operate. Furthermore, the IGB does not have to consider the amount of the potential licensee's bid. Additionally, once the IGB grants an applicant a casino operator license for the Chicago casino, the applicant must enter into a labor peace agreement before the IGB will issue that license.

The CCDA will determine the length of a casino operator license, and the IGB will determine the terms on which to renew a casino operator license. Also, the IGB may revoke a casino operator license for any just cause or when a licensee violates the Gambling Act or a rule of the IGB. Finally, the CCDA must deposit 50 percent of the initial consideration that the winning casino-operator bidder paid to induce the CCDA to accept its bid into the Gaming Facilities Fee Revenue Fund. The initial consideration does not include any license or gaming fees that the winning bidder pays on behalf of the CCDA. After making this deposit and paying all other expenses, the CCDA must transfer all remaining profits to the City of Chicago.

(D) SB744 Creates Four New (Additional) Riverboats or Casinos

SB744 provides for four new riverboats or casinos in addition to the Chicago casino and dictates the location and licensing fees for each new riverboat or casino.

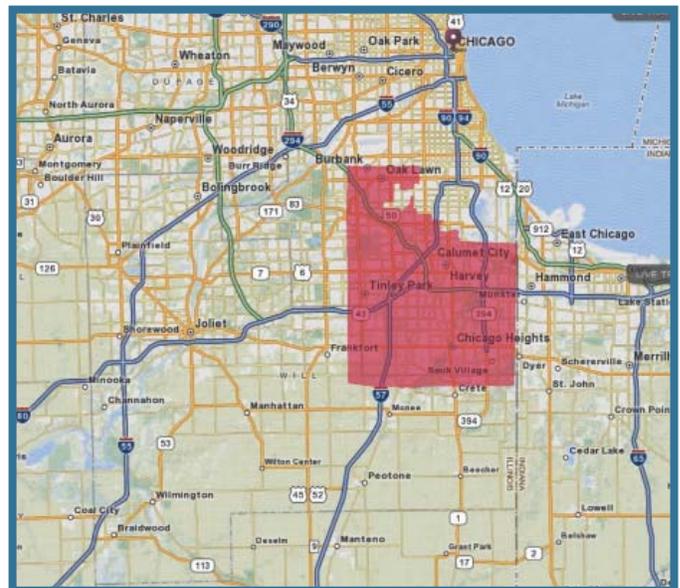
(i) Location of New Riverboats/Casinos

The locations of the new riverboats/casinos are as follows: one in Park City, one in Rockford, one in Danville, and one in Bloom, Bremen, Calumet, Rich, Thornton, or Worth Township (in the southern Chicago suburbs). Please see Exhibit "A", a map depicting the area. SB744 also changes the permitted location of the Par A Dice Casino to Tazewell County from its current location on the Illinois River south of Marshall County (in the Peoria area). The corporate authority of each municipality containing a new riverboat or casino must hold a public hearing to discuss the details of the casino or riverboat operation before the IGB will issue it a license to conduct gambling. Similar to the Chicago casino, SB744 allows new riverboat or casino owners to conduct gaming at a temporary location for 24 months, with the possibility of an extension.

(ii) Licensing Fees

Each new riverboat or casino licensee must pay a \$100,000 initial licensing fee and a \$100,000 renewal fee every four years. Additionally, each riverboat or casino licensee must pay an initial fee of \$25,000 per gaming position if located in Cook County, or \$12,500 per gaming position if located outside Cook County. SB744 also requires any new riverboat or casino licensee, including the CCDA, to make a reconciliation payment four years after commencing operations. The reconciliation payment will equal 75 percent of the riverboat or casino's adjusted gross receipts ("AGR") for its best 12-month period of operations, minus the total amount initially paid for the casino or riverboat's gaming positions. With IGB approval, a riverboat or casino licensee may pay the reconciliation payment in installments over a period of five years with an annual market interest rate. Also, each casino licensee must pay the same admission tax that riverboat licensees currently pay.

Exhibit A



(E) SB744 Increases Gaming Positions for All Riverboats and Casinos

SB744 increases the number of gaming positions permitted at each existing and new riverboat or casino to 2,000, up from the current limit of 1,200 positions. SB744 provides for gaming position limits to rise to 1,600 on the effective date of SB744, and again to 2,000 on January 1, 2013. Each riverboat or casino licensee that increases its number of positions must pay an initial fee of \$25,000 per position if located in Cook County, or \$12,500 per position if located outside Cook County. SB744 also requires riverboat licensees that purchase additional positions to make a reconciliation payment similar to the reconciliation payment that new riverboat and casino licensees must pay. Finally, SB744 provides that the IGB may offer additional gaming positions to riverboat licensees that have purchased all the additional positions offered to them if other riverboat licensees do not purchase all the additional positions offered to them.

(F) SB744 Creates New Application Requirements for Riverboat or Casino Licenses

SB744 requires applicants for a riverboat or casino license to disclose additional information beyond existing requirements. Riverboat or casino license applicants must disclose, among other information: (a) the projected number of jobs that the applicant would create; (b) the adverse effect that granting the applicant a license would have on the public; (c) the applicant's past compliance with certain labor laws; (d) the applicant's past record of dealing with its employees; and (e) proof that the applicant used its best efforts to reach a goal of 25 percent ownership representation by minority persons and 5 percent ownership representation by females. In addition, the IGB will consider whether an applicant intends to enter into a revenue-sharing agreement with other communities, as well as the extent to which the ownership of an applicant includes the most qualified number of minority persons, females and disabled persons. Finally, SB744 permits any one individual, firm, or corporation to own at least five total licenses to conduct gambling using any combination of riverboat or land-based casinos or electronic gaming.

(G) SB744 Allows Riverboat Casinos to Convert to Land-Based Casinos

With the IGB's approval, all existing riverboat casinos may convert to land-based casinos.

(H) SB744 Creates New IGB Requirements

SB744 establishes a new Board structure and new requirements for Board members.

(i) Board Structure

SB744 provides that the Board will have five members, including: (a) one member who has a license to practice law in Illinois; (b) one member who has a bachelor's degree and at least 10 years of experience and training in law enforcement and investigation; (c) one member who is a certified public accountant with auditing experience and knowledge of complex corporate structures and transactions; and (d) one member who has at least five years of experience as a principal, senior officer or director of a company with material responsibility for either the daily operations and management or the policymaking of the company. Furthermore, the Board may not include more than three members of the same political party. SB744 also provides that the Board should reflect the cultural, ethnic and geographic diversity of Illinois. Moreover, if an entity contracting with the Board employed a person within the past year, that person cannot serve as a Board member. In addition, SB744 provides that the Governor will appoint the IGB Administrator with the advice and consent of the Senate and expands the IGB Administrator's role to include developing a system that helps the IGB prevent conflicts of interest.

(ii) Additional Limitations

All Board members must publicly disclose their affiliations with gaming interests within 30 days after their nomination. In addition, SB744 prohibits the IGB from hiring certain persons as employees. The IGB may not hire a person who has had an employer within the previous one-year period that engaged in business with the IGB, a licensee under the Gambling Act, or a licensee under the Illinois Horse Racing Act of 1975. Finally, all Board members and employees must follow the restrictions set forth in the State Officials and Employees Ethics Act.

(I) SB744 Requires Diversity Programs

SB744 provides that each owner of a license to conduct casino gambling, riverboat gambling or electronic gaming must create a diversity program. The purpose of the program is to prevent discrimination when the licensees award and administer contracts. Each program must have three goals: (1) awarding at least 20 percent of the dollar value of all contracts to minority-owned businesses; (2) awarding at least 5 percent of the dollar value of all contracts to female-owned businesses; and (3) establishing hiring goals to promote equal opportunity for employment.

HORSE RACETRACK LAW

SB744 changes existing Illinois horse racetrack law in several ways by amending both the Illinois Horse Racing Act of 1975 and the Riverboat Gambling Act. These changes include: (a) modifying racing at the Illinois State Fairgrounds; (b) permitting electronic gaming machines at racetracks; (c) amending the Illinois Racing Board's (IRB) requirements and duties; (d) requiring drug testing of horses; and (e) placing a surcharge on the sale of assets of electronic gaming licensees.

(A) SB744 Modifies Racing at the Illinois State Fairgrounds

SB744 modifies horse racing at the Illinois State Fairgrounds by establishing the Illinois State Fairgrounds Racetrack Authority ("ISFRA") and extending the annual standardbred race meeting.

(i) Illinois State Fairgrounds Racetrack Authority

SB744 establishes the ISFRA to promote and operate horse-racing operations at the Illinois State Fairgrounds through a racing contractor. Similar to the CCDA, the ISFRA will have a Board that will serve five-year terms with the possibility of consecutive terms and will appoint an executive director. However, unlike the CCDA, the ISFRA's Board will consist of 11 members. Additionally, ISFRA Board members and employees must follow requirements of ethical conduct that are similar to the requirements that CCDA Board members and employees must follow. Furthermore, persons or entities wishing to contract with the ISFRA must follow requirements of disclosure and participate in a competitive bidding process as is required of persons or entities wishing to contract with the CCDA. Also, the ISFRA and its racing contractor must follow all provisions of the Illinois Horse Racing Act of 1975 and all rules of the IRB.

(ii) Annual Standardbred Race Meeting

SB744 enables the ISFRA to modify the period of horse racing at the Illinois State Fairgrounds from its current annual race meeting during the Illinois State Fair to an annual standardbred race meeting that will last between three and nine months.

(B) SB744 Permits Electronic Gaming Machines at Racetracks

SB744 authorizes the IGB to grant one license to conduct electronic gaming to each Illinois horse racetrack. SB744 lists: (i) the requirements to obtain a license; (ii) the license fees required to conduct electronic gaming; (iii) the admissions fee required to conduct electronic gaming; (iv) the limitations on the number and location of electronic gaming machines; and (v) other regulations on electronic gaming.

(i) License Requirements

Before conducting electronic gaming, a racetrack must obtain a license from the IGB. Furthermore, a racetrack owner must conduct at least 240 live races at each track per year, maintain accident medical insurance of \$1,000,000 (per occurrence) for jockeys if it conducts thoroughbred races and meet other additional requirements. However, the ISFRA is exempt from any additional requirements beyond obtaining a license. In addition, each racetrack

operator conducting electronic gaming must promote both live racing and horse ownership. To meet this requirement, all racetrack operators at each racetrack facility must collectively spend a minimum amount on promotional efforts equal to the sum of: (1) the amount of the pari-mutuel tax credit for the prior year and (2) the amount each operator spent on these promotional efforts in 2009. Additionally, the IRB must certify the amount each operator spent on promotional efforts in 2009.

(ii) License Fees

To obtain a license to conduct electronic gaming, a racetrack owner must pay an initial license fee of \$100,000, as well as a license renewal fee of \$100,000 every four years. In addition, a racetrack owner must pay an initial fee of \$25,000 per gaming position located in Cook County and \$12,500 per gaming position located outside Cook County. Finally, a racetrack owner must pay a reconciliation payment four years after it begins conducting electronic gaming. With IGB approval, a racetrack owner may pay the reconciliation payment in installments over a period of five years plus an annual market interest rate. The reconciliation payment must be equal to: (1) 75 percent of the difference of the racetrack's AGR from electronic gaming minus the amount the racetrack owner paid to the purse account for the 12-month period in which this difference is the largest, minus (2) the initial total payment made for gaming positions. After paying these fees, a racetrack owner will retain the AGR from electronic gaming at its racetrack minus privilege taxes on electronic gaming and payments to the purse account. A racetrack owner must make payments to the purse account at the following rates:

AGR	Percentage of AGR Paid to the Purse Account
0 to \$75,000,000	12.75%
\$75,000,001 to \$100,000,000	20.0%
\$100,000,001 to \$125,000,000	26.5%
\$125,000,001 and up	20.5%

In addition, an organization licensee that races at the Illinois State Fairgrounds must pay from its purse account 14.33 percent to each of three racetracks: Arlington Park, Hawthorne Race Course and Fairmount Park.

(iii) Admission Fee

SB744 provides that every racetrack conducting electronic gaming must pay a \$3 "admission fee" on a daily basis for each person admitted to the racetrack. For most electronic gaming facilities, the municipality in which the electronic gaming facility is located will receive \$1 of that fee. If the electronic gaming facility is not located in a municipality, then the county in which the facility is located will receive \$1 of that fee. However, of the \$1 of the admission fee payable to the municipality for electronic gaming facilities located in the Village of Stickney, the Village of Stickney will receive \$0.25, the City of Berwyn will receive \$0.05, the Town of Cicero will receive \$0.50 and the Stickney Public Health District will receive \$0.20. In addition, of the \$1 of the admission fee payable to the municipality for electronic gaming facilities located in Collinsville, the City of Alton will receive \$0.45, the City of East St. Louis will receive \$0.45 and the City of Collinsville will receive \$0.10. Furthermore, for electronic gaming facilities located in an unincorporated area of Cook County, the Village of Melrose Park, the Village of Maywood and Cook County will each receive equal shares of the \$1 admission fee. Additionally, the county in which the electronic gaming facility is located will receive an additional \$0.30 of the \$3 admission fee for each admission to an electronic gaming facility in excess of 1,500,000 patrons per year.

(iv) Limitations on the Number and Location of Electronic Gaming Machines

SB744 authorizes up to 1,200 electronic gaming machines at each horse racetrack in Cook County and up to 900 machines at each race track outside Cook County. If any race track does not acquire its maximum number of machines, the IGB may offer the remaining gaming machines in equal amounts to race tracks that have purchased all the machines originally offered to them.

Similar to the CCDA, a racetrack may conduct electronic gaming at a temporary facility for 24 months, with the possibility of a time extension. After 24 months, the racetrack must conduct electronic gaming in an existing structure at the racetrack where inter-track wagering takes place or at a facility within 300 yards of the racetrack. A racetrack may modify its grounds with the IGB's approval to comply with this requirement, but it cannot modify its grounds such that live horse racing becomes an activity ancillary to electronic gaming. In addition, SB744 allows any racetrack in Cook County conducting electronic gaming to relocate its racetrack within three miles of its current location. However, after relocating, the new racetrack location must still be within Cook County and cannot be within a five-mile radius of a riverboat licensed before December 31, 2011.

(v) Additional Regulations

A racetrack may conduct electronic gaming from 8 a.m. to 3 a.m. the following day on days when it conducts: (1) live racing at the track at which the electronic gaming facility is located, or (2) simulcast wagering on races run in the United States. Furthermore, SB744 removes the current prohibition on horse racing on Sundays. Additionally, a racetrack may contract to allow someone else to operate its electronic gaming facility.

(C) SB744 Amends the IRB's Board Requirements and Duties

SB744 amends the requirements to become a Board member, as well as the duties of the IRB with respect to awarding race dates.

(i) Additional Board Member Requirements

In addition to the current requirements to become a Board member, Board members (and their immediate family members) are prohibited from holding any license under the Gambling Act. In addition, neither Board members nor IRB employees may engage in any political activity. Board members also must follow additional ethical requirements, such as refraining from actions that cause a conflict of interest, refusing to accept gifts from entities that conduct business with the Board, and refraining from using their official position to influence others.

(ii) New IRB Duties

The IRB will have new duties beginning in 2012 with regard to awarding race dates. The Board must award at least 310 standardbred racing days per year. Furthermore, persons with an organization license can request standardbred race dates, and if the Board grants them, that organization must run at least 3,500 races during that calendar year, in addition to the races run at the Illinois State Fairgrounds. For thoroughbred racing, the Board must award, and persons with a license must race, at least 2,500 races per year for any Cook County racetrack and 700 races per year for any racetrack in Madison County. While the Board has discretion in allocating race dates, it must ensure that each person with an organization license is able to qualify for an electronic gaming license by conducting a minimum of 240 live races at each track per year. Additionally, the IRB no longer has the power to oversee and regulate horse races at the Illinois State Fair.

(D) SB744 Requires Drug Testing

The Department of Agriculture and the IRB will create a program to test horses for the presence of illegal drugs at county fairs which will include penalties for violations.

(E) SB744 Places a Surcharge on the Sale of Assets of Electronic Gaming Licensees

From the present until 2019, SB744 will place a surcharge on the sale or exchange of certain assets of an electronic gaming licensee. The surcharge is equal to the licensee's federal income tax liability attributable to the sale or exchange of specific listed assets: (i) capital assets; (ii) depreciable business property; (iii) real property used in trade or business; and (iv) Section 197 intangibles of an organization licensee under the Illinois Horse Racing Act of 1975 and of an electronic gaming licensee under the Illinois Gambling Act.

However, SB744 also provides several exceptions when the surcharge does not apply. The surcharge does not apply when a person sells his/her electronic gaming license, organization license or race track property as a result of any of the following events: (1) the IGB or IRB cancelling, revoking or terminating his/her license, (2) the IGB determining that the transfer of the license is in the best interest of Illinois gaming, (3) a licensee acquiring a controlling interest in the stock or assets of a publicly traded company, (4) a parent company transferring the license to a wholly owned subsidiary, or (5) a licensee transferring or selling the license to another person who was an additional owner of the license at the time of issuance. In addition, the surcharge does not apply when a person sells a license or property due to bankruptcy, a receivership, a debt adjustment initiated by or against the initial licensee, or the death of the person owning the equity interest in the license. Furthermore, SB744 does not impose the surcharge when a person transfers a controlling interest in his electronic gaming license, organization license or racetrack property to his lineal descendants in a transaction in which Section 351 of the Internal Revenue Code would not recognize a gain or loss. Finally, SB744 does not impose the surcharge when the person who transfers an electronic gaming license, organization license or racetrack property was not the initial electronic gaming licensee.

PRIVILEGE TAX RATES

SB744 changes the existing Illinois privilege tax rates on gaming and pari-mutuel wagering.

(A) SB744 Amends Privilege Tax Rates on Gaming

SB744 changes privilege tax rates on table gaming as well as all other gaming. In addition, SB744 provides that (1) existing riverboat licensees will receive a privilege tax credit, and (2) municipalities will receive a percentage of the privilege tax paid.

(i) Riverboats, Land-Based Casinos and Electronic Gaming Operations

SB744 establishes privilege tax rates on the currently existing riverboats, the four new riverboats or casinos, the Chicago casino, and racetracks that engage in electronic gaming. A riverboat, land-based casino or electronic gaming operation's AGR determines the privilege tax rate the operator will pay. Table games are subject to different privilege tax rates than all other gambling games. SB744 imposes new privilege tax rates for table games at currently existing riverboats, the four new riverboats or casinos, and the Chicago casino at the following rates:

PRIVILEGE TAX RATES FOR TABLE GAMES

AGR	January 1, 2012 to June 30, 2013	July 1, 2013 and after
0 to \$25,000,000	12.0%	10.0%
\$25,000,001 to \$50,000,000	19.5%	17.5%
\$50,000,001 to \$70,000,000	24.5%	22.5%
\$70,000,001 and up	16.0%	16.0%

In addition, SB744 imposes new privilege tax rates for all other gambling games at currently existing riverboats, the four new riverboats or casinos, the Chicago casino and racetracks. The Gambling Act defines all other gambling games as including, but not limited to, slot machines, video games of chance gambling and electronic gambling games. SB744 imposes new privilege tax rates for all other gambling games at the following rates:

PRIVILEGE TAX RATES FOR ALL OTHER GAMBLING GAMES

AGR	January 1, 2012 to June 30, 2013	July 1, 2013 and after
0 to \$25,000,000	12.0%	10.0%
\$25,000,001 to \$50,000,000	19.5%	17.5%
\$50,000,001 to \$75,000,000	24.5%	22.5%
\$75,000,001 to \$100,000,000	29.5%	27.5%
\$100,000,001 to \$150,000,000	34.5%	32.5%
\$150,000,001 to \$200,000,000	39.0%	35.0%
\$200,000,001 to \$300,000,000	44.0%	40.0%
\$300,000,001 to \$350,000,000	30.0%	30.0%
\$350,000,001 and up	20.0%	20.0%

In addition, SB744 provides a potential privilege tax reduction for persons licensed to conduct electronic gaming or operate riverboats other than the five new riverboats or casinos. From July 1, 2013 to December 31, 2022, if the privilege tax imposed would result in a licensee receiving less after-tax AGR than the licensee received in 2012, then SB744 reduces the privilege tax by the amount necessary, up to 5 percent of AGR, so that the after-tax AGR received in that year equals the after-tax AGR received in 2012. Finally, all licensed managers conducting riverboat gambling operations on behalf of the State are exempt from the privilege tax.

(ii) Privilege Tax Credit

From the effective date of SB744 until June 30, 2015, a licensee of a previously existing riverboat will receive a dollar-for-dollar privilege tax credit for any renovation or construction costs it has paid, with a cap of \$2,000,000.

(iii) Percent Paid to Municipality

Each municipality or unit of local government (including Chicago) will receive a portion of the privilege tax paid by a riverboat or casino operator located within its boundaries equal to 5 percent of the riverboat or casino operator's AGR. In addition, each municipality will receive 3 percent of the AGR of each electronic gaming facility located within its boundaries, with variations for the City of Collinsville, the Village of Stickney, municipalities in Madison County and unincorporated areas of Cook County. If an electronic gaming facility is not located within a municipality, then the county in which it is located will receive 3 percent of the facility's AGR.

(B) SB744 Amends Privilege Tax Rates on Pari-Mutuel Wagering

When a racetrack owner begins conducting electronic gaming, SB744 subjects it to new privilege tax rates on pari-mutuel wagering. SB744 bases the new tax rates on the pari-mutuel handle relative to the average daily pari-mutuel handle for 2011 ("ADPH") and imposes the following rates:

PRIVILEGE TAX RATES ON PARI-MUTUEL WAGERING

Pari-Mutuel Handle	Privilege Tax Rate
At or below ADPH	1.5%
Above ADPH up to 125% of ADPH	2.0%
125% of ADPH up to 150% of ADPH	2.5%
150% of ADPH up to 175% of ADPH	3.0%
175% of ADPH and up	3.5%

In addition, when a racetrack operator begins conducting electronic gaming, SB744 reduces the maximum pari-mutuel tax credit that operator can claim to 50 percent of the credit it claimed in 2010.

VIDEO GAMING LAW

SB744 changes Illinois video gaming law by amending the Video Gaming Act. SB744 authorizes establishments, truck stop establishments, fraternal establishments and veterans establishments (each a “Location”) to apply to the IGB for a video gaming license within 60 days of the effective date of SB744. In addition, SB744 provides that Location applicants who have not previously been license holders may apply to the IGB for a provisional video gaming license. To obtain a provisional license, a Location applicant must have: (1) never been convicted of a felony or gaming-related crime; (2) paid all State and federal taxes; (3) submitted an application for licensure; (4) provided proof of owning a liquor license that the State has never revoked, a charitable-games license and/or a lottery agent license; and (5) submitted to a background check conducted by the Illinois State Police.

Under SB744, each provisional Location license will be valid until the IGB approves or denies the applicant’s application for licensure, the IGB terminates the provisional license for a violation of the Video Gaming Act, or one calendar year after the IGB granted the provisional license. After the IGB grants a Location a provisional license, the Location may apply for a renewal of the provisional license if the IGB does not act on the application for licensure within 60 days after the Location’s provisional license expires. Additionally, a Location must pay a fee of \$100 for a provisional license application.

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The Vedder Price Gaming Law practice consists of an experienced group of multidisciplinary attorneys who understand the unique issues that arise within the gaming industry and are prepared to address any hurdle that may come in the finance, development or operation of a gaming facility. Led by **James S. Montana, Jr.** and **Terence M. Dunleavy**, the firm’s Gaming Law attorneys provide a complete range of legal services to the gaming and entertainment industries, and also advise financial service, asset manager and investment banking firms on gaming regulatory matters related to the financing of and investment in regulated gaming entities.

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