

CHARITABLE GAMING

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House Bill 4293 (substitute H-3, as reported from committee)
Sponsor: Rep. Tom Barrett

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 187 (substitute H-1, as reported from committee)
Sponsor: Sen. Rick Jones
Senate Committee: Regulatory Reform

House Committee: Regulatory Reform
Complete to 3-25-16

BRIEF SUMMARY: Senate Bill 187 and House Bill 4293 would together amend the Traxler-McCauley-Law-Bowman Bingo Act (hereafter referred to as "the Act") by amending provisions relating to charitable gaming, and by organizing the act into two Articles. Article 1 would contain definitions and provisions pertaining to different types of allowable charitable gaming *other than millionaire parties*. Article 2 would govern *millionaire parties*. As substituted, Senate Bill 187 deals with Article 1, and House Bill 4293 addresses Article 2. The bills are tie-barred, meaning neither can take effect unless both are enacted into law. A more detailed description of the changes follows.

FISCAL IMPACT: The bills would increase administrative, regulatory, and audit costs for the Michigan Gaming Control Board (MGCB) as the entity charged with oversight of the millionaire parties. The magnitude of the increased costs is unknown, but likely minimal compared to current costs. Under the provisions of the bill, the Executive Director of the MGCB would be required to promulgate new rules and increase oversight of millionaire parties. These additional costs would be offset by the collection of licensing fees for millionaire parties and suppliers and charity game ticket sales (deposited in the State Lottery Fund).

Current statute limits necessary expenses to the total revenues received from the sale of charity game tickets and all fees collected. Any revenues from charity ticket sales and licensing fees remaining at the close of the fiscal year after covering necessary expenses shall be deposited in the General Fund. In connection, the annual appropriation act includes boilerplate authorizing up to \$4.0 million to cover MGCB's necessary expenses associated with licensing and regulation of millionaire parties. According to MGCB, necessary expenses in calendar year 2015 for the licensing and regulation of millionaire parties totaled approximately \$2.7 million.

THE APPARENT PROBLEM:

According to testimony presented in committee by the bill sponsors and representatives of several Michigan charities, in recent years the Michigan Gaming Control Board has deviated from the historic regulation of so-called millionaire parties used as fund-raisers by fraternal and community organizations, veterans' groups, animal shelters, and others.

The Board's enforcement activities, say critics, have greatly restricted the amount of money that can be raised via millionaire parties and resulted in a reduction in the number of licenses awarded. The sponsors' intent is to allow charities to raise more money than at present, revise regulations pertaining to millionaire parties to address grievances charities have with the current oversight of this form of charitable gaming, while preventing abuses.

THE CONTENT OF THE BILLS:

Article 1: Other than millionaire parties (SB 187)

Generally speaking, Senate Bill 187 would make mostly technical changes to existing provisions relating to the hosting of a bingo, raffle, charity game, or numeral game. The bill would remove references to millionaire parties in these provisions, as that form of gaming would be governed by the provisions of the new Article 2 created by House Bill 4293.

Senate Bill 187 would group several existing sections into the new Article 1. This article applies to such "events" as bingo games, a raffle, a charity game, or numerical game conducted under a license issued under that article.

Charitable gaming requirements

The bill would add a new provision stating that all fees and revenue collected by the executive director or board must be paid into the State Lottery Fund, out of which all necessary expenses incurred by either the executive director or the board in the administration and enforcement of any activity authorized by the act would be paid. All fees and revenue collected by the lottery commissioner or bureau of state lottery are already paid into this fund and pay for all necessary expenses incurred by the commissioner or bureau in the administration and enforcement of the act.

The expenses incurred may not exceed the amount of revenues received from the sale of charity game tickets and all fees collected under the act. At the end of each fiscal year, all monies attributable to fees and revenue collected under this act that remain in the fund lapse are deposited into the General Fund.

Also changed by the bill is a current provision stating the bureau is responsible for the enforcement and supervision of the administration of the act. This would change so the bureau would be responsible for the enforcement and supervision of the administration of Article 1.

A raffle conducted under the act or rules promulgated under the act would be added to an existing list of other forms of gaming exempt from other laws providing a penalty or disability upon a person who conducts, or participants in, those activities.

Enacting Section 1: Repealers

Sections 10a, 10b, and 20 of the act would be repealed. Section 20 contains the original effective date of the act, April 1, 1973, and states that bingo could not be lawfully

conducted until June 30, 1973. Sections 10a and 10b pertain to millionaire parties. Generally speaking, the provisions of these sections have been incorporated into the new Article 2 contained within House Bill 4293.

Section 10a (which would be repealed) states that all of the following apply in the conduct of a millionaire party:

- A person less than 18 years of age shall not be permitted to wager.
- A wager may not be placed on a contest other than a game of chance taking place at the location and during the time period approved for the event, and in no event shall a wager be placed upon an athletic event or upon a game involving personal skill.
- The licensee under the millionaire party license shall be responsible for insuring that the requirements of this section are met.
- A qualified organization shall not receive more than \$15,000 in exchange for imitation money or chips in one day of a millionaire party.

Section 10b (which would be repealed) states that:

- A qualified organization may be issued up to four millionaire party licenses in one calendar year, with each license valid for only one location.
- A millionaire party license may be issued for up to four consecutive days.
- The bureau shall not issue more than one millionaire party license to a qualified organization for any one day.

Definition of Terms

The following terms would be either newly added to the act, or their present meanings changed by the bill.

"Board" would mean the Michigan Gaming Control Board, and "executive director" would refer to the executive director of the Michigan Gaming Control Board.

"Equipment" would mean the objects and mechanical, electromechanical, or electronic devices used to determine or assist in determining the winners of prizes at an event.

"Numeral game" would mean the random resale of a series of numeral game tickets.

"Occasion" would mean a single day for which a license to conduct games is issued under this act.

"Raffle" would mean an event for which raffle tickets are sold and at which a winner or winners are determined, either by randomly selecting stubs from all of the raffle tickets sold for an event or by an alternative method that is approved in writing by the board, and a preannounced prize is awarded.

[Note: several existing terms would be removed from one section of the bill and re-added to another with either no changes or minor changes that do not substantially impact the present meaning of the term.]

Article 2: Millionaire parties (HB 4293)

House Bill 4293 would add a new Article 2 to the act, dealing with millionaire parties. The term "millionaire party" refers to "an event at which wagers are placed on games of chance customarily associated with a gambling casino through the use of imitation money or chips that have a nominal value equal to or greater than the value of the currency for which they can be exchanged." This definition would remain unchanged by both bills.

Application for a millionaire party

An application for a license to conduct a millionaire party must be made on a form prescribed by the executive director and submitted to the director. That application must contain all of the following:

- The name and address of the applicant.
- The name and address of each officer of the applicant.
- The name of each individual who will serve as a dealer at the event and, as to each individual, whether the individual has been convicted of, forfeited bond on a charge of, or pled guilty to any of the following:
 - A felony.
 - A gambling offense.
 - Criminal fraud.
 - Forgery.
 - Larceny.
 - Filing a false report with a governmental agency.
- The location at which the applicant will conduct the event.
- A description of the demarcated area for the event and an explanation of how the demarcated area will be marked.
- The dates of the event.
- Sufficient facts relating to the applicant's incorporation or organization to enable the executive director to determine whether the applicant is a qualified organization.
- A sworn statement attesting to the nonprofit status of the applicant, signed by the principal officer of the applicant.
- Other information the executive director considers necessary.

Issuance of a millionaire party license

If the executive director determines that an applicant for a millionaire party license is a qualified organization, the executive director shall issue a millionaire party license to the applicant if both of the following apply:

- The applicant has paid a fee of \$50 per day that the applicant proposes to conduct the millionaire party to the executive director.
- There is no reason to deny the issuance of the license because of a prior violation of the act or rules promulgated under this act, which makes the violator ineligible for a license for a period of time, outlined in Section 18 of the Act (MCL 432.117).

Under extreme hardship conditions, as determined by the executive director, the executive director may waive one or more of the requirements for a nonprofit organization to be a

qualified organization, and issue a millionaire party license to that person if all of the following are met:

- The entire proceeds of the event, less the actual reasonable expense of conducting the event, are donated or used for a charitable purpose, organization, or cause.
- None of the individuals connected with the management of the event are compensated in any manner for participation.
- The person has complied, and will comply, with all other provisions of this article and rules promulgated under Article 2.

Similarly, under extreme hardship conditions, the executive director may allow an individual, or a group of individuals, to obtain a license to conduct a millionaire party if all of the following are met:

- The entire proceeds of the event, less the actual reasonable expense of conducting the event, are donated or used for a charitable purpose, organization, or cause.
- None of the individuals connected with the management of the event is compensated in any manner for participating.
- The individual or group of individuals has complied and will comply with all other provisions of this article and the rules promulgated under this article.

A millionaire party licensee would be required to comply with Article 2 and any rules promulgated under Article 2, and the terms and requirements of the license. The following apply to millionaire party licenses:

- A qualified organization may be issued up to four such licenses in a calendar year.
- Each license is valid for only one location as stated on the license.
- A millionaire party license may be issued for up to four consecutive days.
- The executive director shall not issue more than one millionaire party license to a qualified organization for any one day.
- The executive director would be prohibited from issuing millionaire party licenses that would allow more than two events to be conducted at a location on the same date, or allow more than four events to be conducted at a location in one week.
- For each day on which the millionaire party is to be conducted, the license must include the hours during which the licensee may conduct gaming under the license. The executive director may determine the hours.
- Licenses are not assignable and are nontransferable.

Obligations of millionaire party licensees

The following also apply to a licensee:

- A millionaire party licensee may advertise the event, as long that advertising both complies with a ruling promulgated under Article 2 and states the purpose or purposes for which the event proceeds will be used.
- A millionaire party licensee could not enter into an agreement with a location owner or lessor unless the agreement is expressed in a written rental agreement approved by the executive director.
- A location owner or lessor, a partner, member, director, officer, agent, or employee of a location owner or lessor, a shareholder of a privately held corporation that is a

location owner or lessor, or a person residing in the same household as any of these, would be prohibited from doing any of the following:

- Being an officer of a qualified organization conducting a millionaire party at the location.
 - Participating as a player in any event being conducted at the location.
 - Participating in any aspect of an event being conducted at the location, including providing dealers, equipment, or workers, unless all of the following conditions exist:
 - The location is owned or rented by a qualified organization and used by the qualified organization on a continual basis for the regular use of its members.
 - The qualified organization is the licensee and is conducting the event.
 - The executive director has granted a waiver for the participation.
- A millionaire party licensee could only conduct an event with equipment that it owns, rents from another qualified organization under an approved rental agreement, or purchases or rents from a supplier.
 - A millionaire party licensee can only use a bona fide member or an employee of a supplier as a dealer at an event. Only an individual listed as a dealer on the application for a millionaire party license could act as a dealer at an event conducted under that license.
 - An individual would be prohibited from acting as a dealer if that individual has been convicted of, forfeited bond on a charge of, or pled guilty to, any of the following offenses:
 - A felony.
 - A gambling offense.
 - Criminal fraud.
 - Forgery.
 - Larceny.
 - Filing a false report with a governmental agency.
 - A millionaire party licensee must ensure that the dealers at an event conducted under the license comply with Article 2, rules promulgated under Article 2, and any directives of the executive director.
 - At least two bona fide members of the millionaire party licensee, not including any bona fide member acting as a dealer, must be present at all times during an event. If fewer than two bona fide members are present at any time during an event, the millionaire party licensee would be required to immediately report this to the executive director. The executive director may require the licensee to stop conducting the event.
 - One of the bona fide members listed on the application for the millionaire party license must act as the millionaire party chairperson. An individual could only serve as chairperson of millionaire parties conducted by one qualified organization during a calendar year.
 - A bona fide member of a millionaire party licensee present at the event would be required to wear a vest, button, or other distinctive apparel that identifies that

individual as a member of the licensee, and as not being an employee or agent of the location owner, lessor, or supplier.

- Unless permitted by this act, a rule promulgated under Article 2, or written authorization of the executive director, only a bona fide member of the millionaire party licensee could perform any of the following duties at an event conducted under the license:
 - Monitor a game or verify that the game is conducted in conformance with the rules of the game.
 - Verify the age of a player.
- A licensee would have to post the license so it is conspicuously visible at the location where the event is being conducted at all times during the event.
- A licensee would be prohibited from conducting gaming under the license anywhere outside of the demarcated area approved by the executive director, and would have to ensure that access to the demarcated area is controlled.
- A licensee would be prohibited from allowing an individual less than 18 years old to enter the demarcated area when gaming is being conducted there. If alcoholic beverages are served at an event, an individual in the demarcated area who is 18 years old or older but less than 21 years old must be identified by wearing a mark indicating that a member or agent of the millionaire party licensee has verified the individual's age and identification.
- A licensee would be prohibited from allowing wagering at an event held under the license, other than wagering on a game of chance that takes place at the location during the event. Wagering on an athletic event or a game involving personal skill also would be prohibited.
- A millionaire party licensee could not receive more than \$15,000 in exchange for imitation money or chips on any day under the license.
- If the licensee conducts the millionaire party without using dealers or renting equipment from a supplier, owns the location at which the millionaire party is held, and the license is for fewer than four days of gaming, the daily limit under this subsection is determined by dividing \$60,000 by the number of days of gaming allowed under the license.
- A millionaire party licensee would be prohibited from paying an expense related to an event unless all of the following apply:
 - The expense is incurred in connection with the conduct of the event.
 - The expense is necessary and reasonable and falls into one of the following categories:
 - The purchase or rental of equipment necessary for conducting the event and payment of services reasonably necessary for the repair of equipment.
 - Cash prizes or the purchase of prizes of merchandise.
 - Rental of the location at which the event is conducted.
 - Janitorial services.
 - The fee required for issuance or reissuance of a license to conduct the event.
 - Other reasonable expenses incurred by the licensee, not inconsistent with this act, as permitted by rule promulgated under Article 2.

- The expense is itemized.
- The expense is approved by the executive director in writing prior to the event.
- A millionaire party licensee could not accept any compensation in connection with an event unless the compensation is expressly authorized by Article 2 or a rule promulgated under Article 2.
- A licensee could not expend more than 45% of the gross profit from an event to pay expenses incurred in connection with the event.
- A person could not accept any commission, salary, pay, profit, or wage for participating in the management or operation of a millionaire party, except as allowed under a rule promulgated under this article.
- A millionaire party licensee would be required to keep a record of each event as required by the executive director, and would have to allow an authorized representative of the executive director to inspect those records and all financial accounts into which proceeds from the event are deposited or transferred during reasonable business hours.
- A millionaire party licensee would have to file a financial statement signed by the principal officer of the qualified organization with the executive director. The financial statement would have to contain a disclosure of receipts and expenses related to the conduct of each event as required by rule promulgated under this article, as well as a list of the qualified members of the millionaire party licensee who were present at each event.
- If the revenue from a millionaire party is represented to be used or applied by a millionaire party licensee for a charitable purpose, the licensee must file a copy of the financial statement with the attorney general under the Supervision of Trustees for Charitable Purposes Act (PA 101 of 1961).
- A licensee and a location owner or lessee would be required to allow an authorized representative of the executive director, the state police, or a peace officer of a political subdivision in which the event is being conducted, to inspect the location, or an intended location, during business hours.

A bona fide member of a millionaire party licensee would be prohibited from the following:

- Playing a game at an event at which the member is working or assisting.
- Sharing in a prize awarded at an event at which the member is working or assisting.
- Purchasing, playing, or accepting a charity game ticket or numeral game ticket offered for sale by the licensee at an event at which the member is working or assisting.
- Splitting a prize with a player or accept a tip of any kind at an event conducted under the license, unless the tip is a cash tip given to the member for serving as a dealer at the event.

Supplier licensing

A person that applies for a license or renewal of a license to operate as a supplier to millionaire party licensees would have to submit a written application to the executive director on a form prescribed by the executive director. Such an applicant must pay an

annual license fee of \$300 at the time of the application. A supplier's license expires at midnight on September 30 of each year.

If an applicant wishes to provide dealers to millionaire party licensees, the person must also include with its application a list containing the name of each individual who will work for that person as a dealer at millionaire parties and, as to each individual, whether the individual has been convicted of, forfeited bond on a charge of, or pled guilty to any of the following:

- A felony.
- A gambling offense.
- Criminal fraud.
- Forgery.
- Larceny.
- Filing a false report with a governmental agency.

After the application is submitted, or after the supplier's license is issued, if there are any changes in the individuals who will work for the supplier as dealers at millionaire parties, the applicant or supplier would have to immediately provide an updated list containing all of the required information.

A supplier licensed under this section also would have to submit reports to the executive director reports regarding the supplier's activities under Article 2 as required by the executive director.

Enforcement of Article 2

The executive director would be responsible for the enforcement and supervision of the administration of Article 2 and would employ personnel as necessary to implement this article. The executive director could select fraternal organizations that conduct millionaire parties and that are not a branch, lodge, or chapter of a national or state organization to audit to ensure that the organizations are in compliance with this act.

The executive director may deny, suspend, summarily suspend, or revoke any license issued under Article 2 if the licensee or an officer, director, agent, member, or employee of the licensee violates Article 2 or a rule promulgated under Article 2. The executive director may summarily suspend a license for a period of not more than 60 days pending prosecution, investigation, or public hearing. A proceeding to suspend or revoke a license is a contested case and must be conducted in accordance with the Administrative Procedures Act of 1969 (PA 306 pf 1969).

On petition of the executive director, the circuit court may, after a hearing, issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before it in a matter over which the executive director has jurisdiction, control, or supervision under Article 2. If a person subpoenaed to attend any such proceeding or hearing fails to obey the command of the subpoena without reasonable cause, or if a person in attendance in any such proceeding or hearing refuses, without lawful cause, to be examined or to answer a legal or pertinent question or to exhibit a book,

account, record, or other document when ordered to do so by the court, the person may be punished as being in contempt of the court.

The executive director would be required to annually report to the governor and the legislature about the operation of events licensed under Article 2, abuses the executive director may have encountered, and recommendations for changes to the act.

Promulgation and rescinding of rules

The bill would rescind any rules promulgated by the executive prior to the bill's effective date and require the executive director to promulgate new rules to implement Article 2 pursuant to the Administrative Procedures Act of 1969 (PA 306 of 1969).

Definition of Terms

House Bill 4293 would add the following new terms to Article 2 [Note: terms contained within Sections 2, 3, and 3a of Article 1 would also hold their same definitions in Article 2, unless defined differently]:

"Bona fide member" would mean a member who participates in the qualified organization to further its lawful purposes as well as the spouse of such a member.

"Dealer" would mean an individual who does any of the following in a millionaire party game:

- Performs the act of dealing.
- Assists in supervising the dealers.
- Provides technical advice to the millionaire party chairperson.

"Demarcated area" would mean the physical area in which the gaming is conducted at an event.

"Lawful purpose" would mean one or more of the authorized purposes stated in the qualified organization's written bylaws, constitution, charter, or articles of incorporation that are on file with the executive director.

"Lessor" would mean a person who rents a location to a millionaire party licensee for the purpose of conducting an event.

"Location owner" would mean the person that owns a location or an employee or agent of that person.

ARGUMENTS:

For:

As noted above, charities and the bill sponsors believe that the MGCB is being unfair to charities and is restricting their ability to raise funds needed to conduct their respective charitable missions. Supporters of the bills say that they will maintain the oversight needed to protect charities from bad actors and ensure the integrity of the games. Unreasonable

regulatory restrictions on charitable gaming affect fund-raising efforts and hurt the communities served by organizations that use means such as poker tournaments to raise money for services.

Against:

Opponents of the bill say it does not go far enough in offering protections against bad actors, and that charitable gaming should exist as one option for charities to raise money, not as the main option. Critics of the bill, such as the MGCB, further believe that most gaming should take place in properties owned and operated by the charities benefitting from charitable gaming. This would allow those organizations to also raise money by selling food and drink, while also providing maximum supervision over the games. According to the MGCB, when charities contract with third party vendors for gaming locations, as this bill would allow, the third parties are essentially acting like casinos, but without being subject to the same requirements as casinos, such as mandatory background checks on card dealers.

POSITIONS:

The following indicated support for the bills:

Grand Ledge Lions Club (3-23-16)
Huron Valley Conservation Association (3-23-16)
Veterans of Foreign Wars (2-17-16)
Michigan Charitable Gaming Association (2-10-16)
Lansing Art Gallery (2-17-16)
Aces Gaming Supply (2-17-16)
Knights of Columbus Council #10006 (2-10-16)
Lansing Kiwanis Club (2-10-16)
Northville Historical Society (2-17-16)
Michigan Moose Association (2-10-16)
Girl Scout Troop #321 (2-10-16)
American Legion- Commanders Group (2-10-16)
Lapeer Optimists Club (2-10-16)
Laingsburg Lions Club (2-10-16)
Michigan United Conservation Clubs (2-10-16)

The following were opposed to SB 187 and HB 4293:

Michigan Gaming Control Board (3-23-16)

Legislative Analyst: Josh Roesner
Fiscal Analyst: Ben Gielczyk

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.