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BILL



ANALYSIS

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House Bill 4081 (Substitute H-2 as passed by the House)

Sponsor: Representative Tom Barrett

House Committee: Regulatory Reform

Senate Committee: Regulatory Reform

Date Completed: 5-10-17

CONTENT

The bill would add Article 2 to the Bingo Act to regulate the conduct of millionaire parties and provide for the licensure of suppliers to millionaire party licensees. The bill would do the following:

- **Provide for the issuance of a millionaire party license.**
- **Specify standards for the conduct of millionaire parties.**
- **Establish requirements for the presence and participation of members of a qualified organization at a millionaire party the organization conducted.**
- **Limit the amount that a licensee could use to pay expenses to 45% of the gross profit from an event, and otherwise regulate a millionaire party licensee's payment of expenses.**
- **Require a millionaire party licensee to maintain an event record and file a financial statement.**
- **Provide for the issuance of a license to act as a supplier to millionaire parties, and impose a \$300 application fee.**
- **Prohibit a person who was connected to the sale, rental, or distribution of millionaire party equipment, or a person residing in the same household as the supplier, from being involved with the rental or leasing of a facility used for an event.**
- **Specify requirements of the Executive Director of the Michigan Gaming Control Board relative to millionaire parties.**
- **Specify civil penalties for violations of the Act.**
- **Rescind any rules promulgated by the Executive Director under the Act before the bill's effective date, and require the Executive Director to promulgate rules to implement Article 2.**

The bill is tie-barred to Senate Bill 35. (Senate Bill 35 (H-1), as passed by the House, would amend existing provisions of the Act, which would be designated Article 1. The Senate bill is tie-barred to House Bill 4081.)

The Act defines "millionaire party" as 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.

Application for & Issuance of Millionaire Party License

Article 2 would establish requirements for an applicant for a license to conduct a millionaire party and would set a fee of \$50 per day that an applicant proposed to conduct a party. (The

Act currently requires a \$50 per-day fee for a millionaire party license; Senate Bill 35 (H-1) would delete that from the fee schedule in Article 1.)

An applicant for a millionaire party license would have to submit a written application to the Executive Director. The application would have to include the following:

- The applicant's name and address.
- The name and address of each of the applicant's officers.
- The name of each individual who would serve as a dealer at the event and, as to each individual, whether he or she had been convicted of, forfeited bond on a charge of, or pleaded guilty to a felony, a gambling offense, criminal fraud, forgery, larceny, or filing a false report with a governmental agency.
- The location at which the applicant would conduct the event.
- A description of the demarcated area (the physical area in which gaming would be conducted) for the event and an explanation of how that area would 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 was a qualified organization.
- A sworn statement attesting to the applicant's nonprofit status, signed by the applicant's principal officer.
- Other information the Executive Director considered necessary.

Article 2 would do the following:

- Allow the Executive Director, under extreme hardship conditions, as he or she determined, to waive one or more requirements for a person to be a qualified organization and issue a millionaire party license to that person if certain conditions were met.
- Allow a qualified organization to be issued up to four millionaire party licenses in one calendar year, valid for only one location, and allow a license to be issued for up to four days.
- Prohibit the Executive Director from issuing more than one millionaire party license to a qualified organization for any one day, issuing licenses that would allow more than two events to be conducted at a location on the same date, or issuing licenses that would allow more than four events to be conducted at a location in one week.
- Require a millionaire party license to state that for each day on which the millionaire party was to be conducted, the licensee could conduct gaming under the license between the hours of 8 a.m. on that day and 2 a.m. on the following day.
- Require a millionaire party licensee to comply with Article 2 and rules promulgated under it and with the terms and requirements of the license.
- Specify that a millionaire party license would not be assignable or transferrable.

(Under Section 10b, which Senate Bill 35 (H-1) would repeal, a qualified organization may be issued up to four millionaire party licenses in one calendar year; each license may be valid only for one location; a license may be issued for up to four consecutive days; and not more than one millionaire party license may be issued to a qualified organization for any one day.)

The Act defines "qualified organization" as a bona fide religious, educational, service, senior citizens, fraternal, or veterans' organization that operates without profit to its members and that either has been in existence continuously as an organization for at least five years or is exempt from taxation under Section 501(c) of the Internal Revenue Code. The term does not include a candidate committee, political committee, political party committee, ballot question committee, independent committee, or any other committee defined by and organized under the Michigan Campaign Finance Act.

Under Article 2, "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.

Conduct of Millionaire Parties

Article 2 would establish requirements and restrictions for the conduct of a millionaire party event. A licensee could not enter into an agreement with a location owner or lessor unless the agreement was expressed in a written rental agreement approved by the Executive Director. A location owner or lessor, or certain people affiliated with the owner or lessor, 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 conducted at the location, including providing dealers, equipment, or workers, unless the Executive Director granted a waiver for the participation and other criteria were met.

Article 2 also would do the following:

- Allow a millionaire party licensee to advertise the event if the advertising complied with rules promulgated under Article 2 and stated the purposes for which the proceeds from the event would be used.
- Allow a licensee to conduct an event only with equipment that it owned, rented from another qualified organization under a rental agreement approved by the Executive Director, or purchased or rented from a supplier.
- Allow a licensee to use only a bona fide member or an employee of a supplier as a dealer at an event.
- Prohibit an individual from acting as a dealer at an event if he or she had been convicted of, forfeited bond on a charge of, or pleaded guilty to a felony, a gambling offense, criminal fraud, forgery, larceny, or filing a false report with a governmental agency.
- Prohibit an individual who was not listed as a dealer on the license application from acting as a dealer at an event conducted under the license.
- Require a licensee to ensure that an event conducted under the license was conducted in compliance with Article 2 and rules promulgated under it.
- Require a licensee to post the license so that it was conspicuously visible at the location where the event was conducted, at all times during the event.
- Prohibit a licensee from conducting gaming under the license anywhere outside of the demarcated area approved by the Executive Director, require the licensee to ensure that access to the demarcated area was controlled, and require the licensee to prohibit a person under 18 from entering the demarcated area when gaming was being conducted there.
- Prohibit a licensee from allowing wagering at an event held under the license other than wagering on a game of chance that took place in the demarcated area at the location during the event, and prohibit a licensee from allowing a wager to be placed at the event on an athletic event or a game involving personal skill.
- Allow a licensee to conduct a charity game and numeral game, and specify that the Bureau of State Lottery would have sole enforcement and supervision authority over the conduct of the game if it were conducted.

(Article 2 would define "bona fide member" as a member who participates in the qualified organization to further its lawful purposes and the spouse of such a member. "Lawful purpose"

would mean a purpose that would qualify an organization to be exempt from taxation under Section 501(c) of the Internal Revenue Code.)

A millionaire party licensee could not receive more than \$20,000 in exchange for imitation money or chips on any day under the license. However, if the licensee conducted the millionaire party without using dealers from a supplier and owned the location at which the millionaire party was held, and if the license were for fewer than four days of gaming, the daily limit would be determined by dividing \$80,000 by the number of days of gaming allowed under the license.

If alcoholic beverages were served at an event, an individual in the demarcated area who was at least 18 but less than 21 would have to be identified by wearing a mark indicating that a member or agent of the licensee had verified the person's age and identification.

A licensee and a location owner or lessee would have to allow an authorized representative of the Executive Director or the State Police or a peace officer of a political subdivision in which the event was conducted to inspect the location, or an intended location, during business hours.

(Section 10a, which Senate Bill 35 (H-1) would repeal, provides that all of the following apply in the conduct of millionaire parties:

- A person less than 18 years old may not be allowed 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 no wager may be placed on an athletic event or a game involving personal skill.
- A qualified organization may not receive more than \$15,000 in exchange for imitation money or chips in one day of a millionaire party.
- The licensee is responsible for ensuring that these requirements are met.)

Members' Presence & Participation

At least two bona fide members of the licensee, not including those acting as dealers, would have to be present at all times during an event. If fewer than two were present at any time, the licensee would have to immediately report it to the Executive Director, who could require the licensee to stop conducting the event.

One of the members listed on the application for the millionaire party license would have to act as the party chairperson. An individual could not serve as chairperson of parties conducted by more than one qualified organization during a calendar year.

A bona fide member of a licensee who was present at an event would have to wear a vest, button, or other distinctive apparel to identify him or her as a member and as not being an employee or agent of the location owner, lessor, or supplier. Unless permitted by the Act, a rule promulgated under Article 2, or written authorization of the Executive Director, only a bona fide member of the licensee could perform any of the following duties at an event conducted under the license:

- Monitoring a game or verifying that the game was conducted in conformance with the rules of the game.
- Verifying the age of a player.

A bona fide member of a millionaire party licensee would be prohibited from doing any of the following at an event at which he or she was working or assisting:

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

Expenses & Compensation

A millionaire party licensee would be prohibited from paying an expense related to an event unless it were incurred in connection with the conduct of the event, itemized, approved by the Executive Director in writing before the event, and necessary and reasonable, and fell 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 was conducted, which could not exceed \$1,000 for each event.
- 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 the Act, as permitted by rule promulgated under Article 2.

A licensee could not spend more than 45% of the gross profit from an event to pay expenses incurred in connection with the event.

A licensee could not accept any compensation in connection with an event unless the compensation were expressly authorized by Article 2 or a rule promulgated under it.

A person who was directly or indirectly connected to the sale, rental, or distribution of millionaire party equipment or a person residing in the same household as the supplier could not be involved directly or indirectly with the rental or leasing of a facility used for an event.

Event Record & Financial Statement

A millionaire party licensee would be required to keep a record of each event as required by the Executive Director. The licensee would have to allow an authorized representative of the Executive Director to inspect, during reasonable business hours, the record and all financial accounts into which proceeds from the event were deposited or transferred.

A licensee would have to file with the Executive Director a financial statement, signed by the qualified organization's principal officer. The financial statement would have to contain a list of the qualified members of the licensee who were present as to each event and a disclosure of receipts and expenses related to the conduct of each event as required by rule. If the revenue from a millionaire party were represented to be used or applied by a licensee for a charitable purpose, the licensee would have to file a copy of the financial statement with the Attorney General under the Supervision of Trustees for Charitable Purposes Act.

Suppliers

A person that applied for a license or renewal of a license to operate as a supplier to millionaire party licensees would be required to submit a written application to the Executive Director, and pay an annual license fee of \$300 at the time of application.

An applicant who wished to provide dealers to millionaire party licensees would have to include with the application a list of the names of each individual who would work as a dealer. The list would have to include, for each dealer, whether he or she had been convicted of, forfeited bond on a charge of, or pleaded guilty to a felony, a gambling offense, criminal fraud, forgery, larceny, or filing a false report with a governmental agency. If, after application for or the issuance of a supplier's license, there were any changes in who would work for the supplier as a dealer, the applicant or supplier would have to immediately provide an updated list.

A supplier licensed under Article 2 would have to give the Executive Director reports that he or she required regarding the supplier's activities. A supplier's license would expire at midnight on September 30 of each year.

Executive Director Responsibilities

The Executive Director would have to enforce and supervise the administration of Article 2, and employ personnel necessary to implement the article. He or she could select fraternal organizations that conducted millionaire parties and that were not a branch, lodge, or chapter of a national or State organization to audit to ensure that the organizations were in compliance with the Act.

The Executive Director could 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 violated Article 2 or a rule promulgated under it. The Executive Director could summarily suspend a license for up to 60 days pending prosecution, investigation, or public hearing. A proceeding to suspend or revoke a license would be a contested case under the Administrative Procedures Act.

On petition of the Executive Director, the circuit court after a hearing could 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 had jurisdiction, control, or supervision under Article 2. If a person failed to obey the subpoena without reasonable cause, or if a person in attendance in any proceeding or hearing refused, 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, he or she could be punished as being in contempt of court.

The Executive Director would have to report annually to the Governor and the Legislature about the operation of events licensed under Article 2, abuses that he or she encountered, and recommendations for changes in the Bingo Act.

Penalties

The Executive Director could impose a civil penalty of up to \$2,500 for each violation of the Act, any rules promulgated under the Act, or any order issued under it. In addition to any civil penalty imposed under this provision, a person could be liable for a fine of up to the amount of any illegal payments made or received.

A qualified organization, a millionaire party chairperson, and a principal officer would be jointly and severally liable for any penalties and fines. A supplier and the owners and co-owners of a supplier would be jointly and severally liable for any penalties and fines.

A person whose license was revoked would be ineligible to apply for a license for five years.

FISCAL IMPACT

The Michigan Gaming Control Board, which is located in the Department of Treasury, would experience some additional costs in implementing the bill. The Board's responsibilities would include changing the rules that govern millionaire parties, enforcing the statute, processing licenses, and conducting audits. The related costs would be covered by the license fees that are collected and deposited in the Lottery Fund. Since the bill would not change the license fee rate, only increases and decreases in the number of licenses issued during a year would result in changes in the revenue to the Gaming Control Board. At this time, it is unknown how this bill could affect the number of licenses issued in a single year. The Department would have to keep the administrative costs under the amount collected from the licensees and under the \$4.0 million cap budgeted for administration and oversight of millionaire parties. If the administrative costs were lower than the amount of revenue brought into the Lottery Fund, then the additional funds would be transferred to the General Fund at the end of the fiscal year, which would result in additional General Fund revenue. At this time, it is expected that the costs of the administrative and enforcement changes would be minimal.

Any civil fine revenue resulting from the bill would increase revenue to public libraries. Otherwise, the bill would have no fiscal impact on local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.