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House Bill 4173 (Substitute H-2 as passed by the House)

Sponsor: Representative John Chirkun

House Committee: Regulatory Reform
Ways and Means

Senate Committee: Regulatory Reform

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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 designate the current Act as Article 1 and remove the regulation of millionaire parties from Article 1. Under Article 2, 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.**
- **Specify requirements of the Executive Director of the Michigan Gaming Control Board relative to millionaire parties.**
- **Establish penalties for violations of the Act.**

Under Article 1, the bill would do the following:

- **Require fees and revenue collected by the Executive Director to be deposited in the State Lottery Fund; require expenses of the Director or the Board to be paid from the Fund; and limit those expenses to the amount of revenue from ticket sales and fees collected under the Act.**
- **Include a raffle in a provision under which a penalty under another law relating to a bingo game, millionaire party, or charity game does not apply to conduct done pursuant to the Act or rules promulgated under it.**
- **Require a licensee to allow an authorized representative of the Bureau of State Lottery or the Department of State Police or a local law enforcement officer to inspect an event location during business hours, instead of at any time.**

The bill also states that any rules promulgated by the Executive Director under the Act before the bill's effective date would remain in effect unless directly inconsistent with the bill. The Executive Director would have to promulgate rules to implement Article 2.

In addition, the bill would repeal Sections 10a, 10b, and 17 of the Act. (Sections 10a and 10b regulate the conduct of millionaire parties and the issuance of millionaire party licenses, respectively, Section 17 specifies that a person who willfully violates the Act is guilty of a misdemeanor and must be fined not more than \$1,000 or imprisoned for not more than 6 months, or both.) The bill also would repeal Section 20, which provided for the Act's effective date.

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 require an applicant for a license to conduct a millionaire party to submit to the Executive Director an application 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, but the bill would delete that from the fee schedule in Article 1.)

An application under Article 2 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.

If the Executive Director determined that an applicant for a license was a qualified organization and was otherwise eligible and suitable, and paid the license fee, the Executive Director would have to issue a license to the applicant.

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 or only for the purpose of conducting a small raffle or a large raffle under the Act, a component of the military or Michigan National Guard whose members are in active service or active State service. 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.

Article 2 also would do the following:

- 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 millionaire party events to be conducted at a single location on the same date or at the same time, 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 the hours for each event day on which the millionaire party could be conducted, and include a prohibition against a millionaire party from beginning before 8 a.m. or continuing past 2 a.m. the following day.
- Require a millionaire party licensee to comply with the Bingo Act 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 the bill 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.)

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.
- Allow a millionaire party licensee to conduct a charity game and a numeral game.

(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 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.)

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 were 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 the bill 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

Article 2 would require at least two bona fide members of the licensee, not including those acting as dealers, 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.

Article 2 also would prohibit a bona fide member of a millionaire party licensee 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

Article 2 would prohibit a millionaire party licensee from paying an expense related to an event unless it was incurred in connection with the conduct of the event, was itemized, was approved by the Executive Director in writing before the event, and was 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 rental expense could not exceed \$250 for each event day).
- 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.

Event Record & Financial Statement

Article 2 would require a millionaire party licensee 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 promulgated under Article 2. 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

Article 2 would require a person that applied for a license or renewal of a license to operate as a supplier to millionaire party licensees 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.

A person could not obtain a supplier license on behalf of another person. A person could not have another person obtain a supplier license on the person's behalf. A person, other than a person approved by the executive director, could not directly or indirectly receive a payment from, pay an expense for, or have an ownership or equity stake in, a supplier.

Two or more people could not conspire for one or more people to obtain a supplier's license for the purpose of allowing any person who was not a supplier to enjoy the benefits of the license.

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.

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.

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.

For each violation of the Bingo Act, any rules promulgated under it, or any order issued under it, the Executive Director could impose a civil penalty of up to \$2,500 and could issue a cease and desist order, or obtain injunctive relief. 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, a supplier and the owners and co-owners of a supplier, and a principal officer would be jointly and severally liable for any penalties and fines levied under the provision above. A person whose license was revoked would be ineligible to apply for a license for five years.

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 Act.

Penalties

A person who willfully violated the Act would be guilty of a misdemeanor punishable by imprisonment for not more than six months or a fine of not more than \$1,000, or both, for doing any of the following:

- Cheating at an event.
- Using millionaire party proceeds for something other than a lawful purpose of the qualified organization.
- Knowingly making a wager if the person were less than 18 years of age or permitting a person who was less than 18 years of age to make a wager.
- Using chips not authorized for use at a millionaire party.
- Willfully failing to appear before and provide an item to the Executive Director at the time and place specified in a subpoena issued by him or her.
- Willfully refusing, without just cause, to testify or provide items in an answer to a subpoena or subpoena duces tecum issued by the Executive Director.
- For a location owner or lessor, a shareholder of a privately held corporation that owned or leased a location, a partner or officer, an agent or employee of a lessor, or an individual residing in the same household as a location owner or lessor, a shareholder of a privately held corporation that owned or leased a location, or a partner, officer, or agent of a location owner, making or receiving a payment from any person, other than for the preapproved payment of rent, for any aspect of a millionaire party.
- Conducting or permitting a person who was not licensed under the Act to conduct activities required to be licensed under the Act.
- Violating further provisions of the bill.

A person would be guilty of a felony punishable by imprisonment for not more than two years or a fine of not more than \$2,500, or both, for doing any of the following:

- Knowingly making a false statement on an application for a license under the Act.
- Knowingly making a false statement, orally or in writing, to the Executive Director or his or her authorized representative.

A person convicted under the above provisions would be ineligible to receive or maintain a license under the Act.

In addition to the fines provided above, a person could be liable for a fine up to the amount of any payments made or received in violation of the Act.

These provisions would not prohibit a person who violated the Act from being charged with, convicted of, or punished for any other violation of law, including the Michigan Penal Code and the Michigan Gaming Control and Revenue Act.

State Lottery Fund

Under Article 1, the bill would require all fees and revenue collected by the Executive Director under the Bingo Act to be paid into the State Lottery Fund. All necessary expenses incurred by the Executive Director or the Michigan Gaming Control Board in the administration and enforcement of any activity authorized by the Act would have to be financed from the State Lottery Fund and could not exceed the amount of revenue received from the sale of charity game tickets and all fees collected under the Act.

Raffles

Under Article 1, if conduct is performed pursuant to the Act or rules promulgated under it, the conduct is not subject to any other law providing a penalty or disability upon a person who conducts or participates in a bingo game, millionaire party, or charity game; who sells or possesses equipment used in conducting a bingo or millionaire party; who permits bingo, a millionaire party, or a charity game to be conducted on his or her premises; or who does other acts in connection with bingo, a millionaire party, or a charity game. The bill would include a raffle in that provision. (This provision also states that it does not limit the application of the Michigan Campaign Finance Act to fund-raising events conducted by or for the benefit of a committee that has filed or is required to file a statement of organization under that Act.)

MCL 432.102 et al.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have a fiscal impact on the Michigan Gaming Control Board (MGCB). The bill would increase administrative costs to the MGCB in the form of promulgating rules, additional administration, regulation, and auditing of millionaire parties. The additional costs are currently unknown, but likely would be covered by license revenue. The revenue would be generated from licensing fees on millionaire parties and suppliers. The MGCB issued 2,228 licenses of millionaire parties on 8,129 party day events in fiscal year (FY) 2017-18. If revenue is greater than the administrative costs, the remaining balance lapses to the General Fund at the end of the fiscal year. In FY 2017-18, \$1.9 million lapsed to the General Fund, which was the difference between revenue generated and administrative expenses. Currently, the FY 2019-20 budget appropriates \$3.0 million towards Millionaire Party Regulation.

Fiscal Analyst: Cory Savino

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