

CONFERENCE COMMITTEE REPORT

SB 272

2022 Regular Session

Cortez

June 5, 2022

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 272 by Senator Cortez, recommend the following concerning the Reengrossed bill:

1. That the House Committee Amendments (HCASB272 506 4467) proposed by the House Committee on Commerce and adopted by the House of Representatives on May 18, 2022, be adopted.
2. That the Legislative Bureau Amendment (HLBSB272 ELLISB 3339) proposed by the Legislative Bureau and adopted by the House of Representatives on May 18, 2022, be adopted.
3. That the following amendments to the reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, delete line 3, and insert "4:147(7), 164, 215(D), and 228(H) and R.S. 27:361(E)(3), 393.1, 602(18.1), 607(H), and 629, relative to"

AMENDMENT NO. 2

On page 1, line 9, after "prohibitions;" insert "to provide relative to revenue from slot machines to support horse racing industry; to provide for facility maintenance and improvement funds; to provide for minimum standards and infrastructure investments;"

AMENDMENT NO. 3

On page 1, at the beginning of line 12, after "4:147(7)," insert "164,"

AMENDMENT NO. 4

On page 2, between lines 22 and 23, insert the following:

§164. Facility maintenance and improvement fund

A. Each association shall establish and maintain a facility maintenance and improvement fund for the sole purpose of complying with the commission's rules regarding minimum standards and required infrastructure investments. This fund shall be subject to audit by the commission and the legislative auditor.

B. For purposes of this Section, the following terms shall have the following meanings:

(1) "Gross profits" means the amount of taxable net slot machine proceeds less the amount of state taxes paid.

(2) "State tax" means the license tax on taxable net slot machine proceeds as provided in R.S. 27:393.

(3) "Taxable net slot machine proceeds" shall have the same meaning as that term is defined in R.S. 27:353.

C.(1) After July 1, 2023, ten percent of gross profits shall be deposited into the fund until such time that all commission-required facility maintenance

and improvements have been completed as determined by the commission. Such deposits shall be made at the same time as the state tax is paid.

(2) Once the initial facility maintenance and improvements are completed to the satisfaction of the commission, each association shall continue to maintain a minimum fund balance of three million dollars.

D.(1) For the purposes of the initial maintenance and improvements, the following deadlines shall apply:

(a) The commission shall promulgate rules establishing minimum standards of facilities and infrastructure investments no later than October 1, 2022.

(b) Each association shall submit a plan for compliance to the commission no later than December 1, 2022.

(c) The commission shall approve or specify deficiencies in each association's plan no later than February 1, 2023.

(d) Each association shall complete the required maintenance and improvements to its facilities no later than December 31, 2023.

(2) Any of the deadlines described in Paragraph (1) of this Subsection may be extended by a majority vote of the membership of the commission for extenuating circumstances including force majeure.

(3) Failure of an association to meet deadlines provided in Subparagraphs (1)(b) and (d) of this Subsection shall constitute grounds for just cause for commission action as provided by R.S. 4:152.

E.(1) If the commission determines that an association is in compliance with the commission's minimum standards and infrastructure investments, the commission may, by a two-thirds vote of the membership, authorize any of the following:

(a) Exempt an association from maintaining the minimum fund balance required in Subsection C of this Section.

(b) Exempt the association from making deposits as required by Subsection C of this Section.

(c) Allow the balance of an association's facility maintenance and improvement fund be withdrawn or reduced.

(2) Maintaining compliance with the commission's minimum standards and required infrastructure investment is a continuing obligation of each association. By a majority vote, the commission may reconsider a determination of compliance at any time and revoke any exemption or allowance provided in Paragraph (1) of this Subsection for noncompliance.

* * *

AMENDMENT NO. 5

On page 12, at the end of line 29, change "R.S. 27:602(18.1)," to "R.S. 27:361(E)(3), 393.1, 602(18.1),"

AMENDMENT NO. 6

On page 13, between lines 1 and 2, insert the following:

"§361. Conduct of slot machine gaming; temporary conduct

* * *

E. * * *

(3)(a) Notwithstanding Paragraph (1) of this Subsection, upon notification from the Louisiana State Racing Commission that the licensed eligible facility is not in compliance with R.S. 4:164 but is cooperating with the commission and working towards compliance, the board may grant or renew a license for a probationary period not to exceed one year. Barring extenuating circumstances as determined by the board, the probationary period shall not be extended beyond one year. After the probationary period, the board shall either grant or renew the license pursuant to Paragraph (1) of this Subsection for the remainder of the term or revoke the license.

(b) Nothing in Subparagraph (a) of this Paragraph shall prevent the board from denying or revoking a license for reasons other than R.S. 4:164.

* * *

§393.1. Facility maintenance and improvement fund

A. Each licensed eligible facility or licensee shall establish and maintain a facility maintenance and improvement fund as provided in R.S. 4:164 and shall make deposits as required therein.

B. The establishment, required deposits, and maintenance of a facility maintenance and improvement fund as well as compliance with the minimum standards and required infrastructure investments as determined by the Louisiana State Racing Commission shall be a condition of licensing and shall be required by the owner of the licensed eligible facility or the licensee to maintain continued authority to conduct slot machines gaming at the licensed eligible facility. The provisions of this Subsection shall be applicable to any new license or the renewal of any existing license issued by the board on and after July 1, 2022.

C. Except as provided in R.S. 27:361(E)(3), the board shall not issue a new or renewed license to any eligible facility unless it receives certification from the Louisiana State Racing Commission that the applicant eligible facility is in compliance with the requirements of R.S. 4:164.

* * *

AMENDMENT NO. 7

On page 14, after line 6, insert the following:

"Section 3. The provisions of this Act enacting R.S. 4:164 and R.S. 27:393.1 shall supercede the conflicting provisions of the Act which originated as House Bill No. 1055 of the 2022 Regular Session enacting R.S. 4:164 and R.S. 27:393.1.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval."

Respectfully submitted,

Senators:

Representatives:

Senator Patrick Page Cortez

Representative Paula P. Davis

Senator Gary L. Smith Jr.

Representative Jason Hughes

Senator Patrick Connick

Representative John M. Stefanski

The legislative instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

CONFERENCE COMMITTEE REPORT DIGEST

SB 272

2022 Regular Session

Cortez

Keyword and summary of the bill as proposed by the Conference Committee

HORSE RACING. Provides relative to wagering on horse races in a sports book lounge and required investment of slot machine proceeds in race track facilities.

Report adopts House amendments to:

1. Remove the authority to deduct direct costs in determining net audited profits.
2. Add definition for "offtrack wagering facility licensee".
3. Add authority for LSRC to terminate the license of an OTB located in a sports book lounge for actions contrary to its agreement with a host entity or a plan of operation.
4. Add specific authority for LGCB to reconsider and withdraw its approval of an agreement or plan of operation for an OTB located in a sports book lounge.
5. Make technical corrections.

Report amends the bill to:

1. Requires each horse racing association to establish and maintain a facility maintenance and improvement fund, specifies the fund's purpose, and provides that the fund shall be subject to audit by the La. State Racing Commission and the legislative auditor.
2. Defines the terms "gross profits", "state tax", and "taxable net slot machine proceeds".
3. Requires that, after July 1, 2023, 10% of gross profits are to be deposited into the facility maintenance and improvement fund until all commission-required facility maintenance and improvements have been completed.
4. After initial maintenance and improvements have been completed satisfactorily, requires each association to maintain a minimum fund balance of three million dollars.
5. Provides for deadlines for development of the minimum facility maintenance and improvements standards, the submission of plans for compliance, the approval of plans, and completion of the build outs.
6. Provides that for any new license or license renewal issued on or after July 1, 2023 by the Gaming Control Board for Slots at Racetracks, the establishment of, deposits into, and maintenance of the fund and compliance with the minimum standards and required infrastructure investments shall be a condition of licensing and shall be required by the owner of the licensed eligible facility or licensee in order to maintain continued authority to conduct slot machines gaming.
7. Authorizes the Gaming Control Board to grant or renew a Slots at Racetrack license for a probationary period to associations that are out of compliance

with minimum standards and infrastructure investment required by the State Racing Commission but are working towards compliance as certified by the State Racing Commission.

Digest of the bill as proposed by the Conference Committee

Present law provides for the Louisiana State Racing Commission (LSRC) to regulate the conduct of pari-mutuel racehorse wagering and the Louisiana Gaming Control Board (LGCB) to regulate the conduct of sports wagering.

Proposed law authorizes the LSRC to make rules and regulations for pari-mutuel wagering in a sports book lounge of a host entity (Riverboats or Land-based Casino) licensed by the LGCB to conduct sports wagering. Also authorizes pari-mutuel wagering in the sports book lounge of a licensed racing association (Racetrack).

Present law provides that LSRC is the exclusive authority regarding all conducted horse races upon the results of which there is wagering. Provides that only persons receiving a license from LSRC may conduct pari-mutuel wagering and that pari-mutuel wagering shall be limited to a space within the race meeting grounds or an offtrack wagering facility. Declares that all other forms of wagering on the result of horse races are illegal.

Proposed law provides that notwithstanding present law, pari-mutuel wagering on the result of horse races may also be conducted in the sports book lounge licensed by LGCB for sports wagering, provided the requirements of proposed law are met.

Present law provides for certain definitions for the purpose of establishing an offtrack wagering facility (OTB).

Proposed law retains present law and adds definitions for "audited net profits", "host entity" and "offtrack wagering facility licensee".

Present law provides that any licensed racing association may conduct pari-mutuel wagering and engage in all necessary activities to establish appropriate offtrack wagering facilities to accomplish that purpose.

Proposed law retains present law and adds that a licensed racing association may be licensed as an OTB to conduct pari-mutuel wagering in a sports book lounge of a Riverboat or Land-based Casino, provided that the Riverboat or Land-based Casino is geographically located in one of the 20 parishes that have approved, by public referendum, the conduct of pari-mutuel wagering in that parish. Requires there to be an agreement between the licensed racing association and the Riverboat or Land-based Casino that is approved by both the LSRC and LGCB and that the agreement include the following terms:

- (1) Pari-mutuel wagering shall be restricted to the Riverboat's or Land-based Casino's retail sports book lounge.
- (2) Pari-mutuel wagering shall be conducted in accordance with present law.
- (3) All pari-mutuel wagers shall be maintained and accounted separate and distinct from all other sports wagers placed in the sports book lounge.
- (4) The gaming division of the office of state police shall have access to all files, records, documents, film, tape, including surveillance tape, and any other information and personnel necessary to determine compliance with all gaming laws, rules, and regulations on gaming activities and operations under LSRC's jurisdiction or LGCB's jurisdiction.
- (5) The offtrack wagering facility licensee shall make compensation payments to the Riverboat or Land-based Casino of 30% of audited net profits on the total amount wagered at the Riverboat or Land-based Casino facility. Requires the agreement to specify the calculation and periodic payments.

- (6) All commissions and fees taken from pari-mutuel wagers and the distribution of the takeouts shall be as provided in present law.

Proposed law provides that a licensed racing association may be licensed as an OTB to conduct pari-mutuel wagering in its sports book pursuant to a plan of operation approved by LSRC and LGCB and requires the plan of operation to provide that:

- (1) Pari-mutuel wagering shall be conducted in accordance with present law.
- (2) All pari-mutuel wagers placed in the sports book lounge shall be maintained and accounted separate and distinct from all other sports wagers placed in its sports book lounge.
- (3) The gaming division of the office of state police shall have access to all files, records, documents, film, tape, including surveillance tape, and any other information and personnel necessary to determine compliance with all gaming laws, rules, and regulations on gaming activities and operations under LSRC's jurisdiction or LGCB's jurisdiction.

Present law provides several criteria for LSRC to approve a licensed racing association for an OTB.

Proposed law retains present law with the following exceptions for OTBs located in a sports book lounge:

- (1) Provides a municipal governing body's authority to impose a license fee on an OTB as a result of a municipal referendum shall not apply.
- (2) Provides that the requirement that a licensed racing association grant permission to an OTB to be located within a 55 mile radius of its pari-mutuel facility shall not apply.
- (3) Provides that such OTB's shall not count toward present law's maximum number of OTBs per parish.
- (4) Provides that present law's maximum allowable attendance at an OTB shall not apply.
- (5) Raises the minimum age of a person to enter to 21 years old.
- (6) Provides the 25 cents per person admission fee shall not apply.
- (7) Prohibits the conducting of historical horse wagering.

Present law provides that only a licensed racing association may own and operate an OTB in a parish whose parish seat is located less than 55 miles from their facility and provides a procedure for ownership for locations outside of the 55 mile radius and instances where more than one facility is within the radius.

Proposed law provides that present law shall not apply to an OTB located in a sports book lounge of a Riverboat or Land-based Casino.

Present law restricts the location of OTBs in relation to National Register of Historic Places, public playgrounds, residential property or buildings primarily used as a church, synagogue, public library, or school.

Proposed law provides that present law shall not apply to an OTB located in a sports book lounge of a Riverboat or Land-based Casino.

Present law provides that LSRC may refuse, suspend, or withdraw licenses granted by it for just cause. Provides that several behaviors that constitute just cause, including an action that is contrary to present law.

Proposed law retains present law and adds to the behaviors that constitute just cause actions contrary to an agreement or plan of operation for an OTB located in a sports book lounge.

Present law provides that Riverboats, Land-based Casino, and Racetracks pay taxes on net gaming proceeds from sports wagering. Defines "net gaming proceeds" as the amount equal to the total gross revenue of all wagers placed by patrons less the total amount of all winnings paid out to patrons and the amount of eligible promotional play.

Proposed law provides that "net gaming proceeds" shall not include wagers placed by patrons on racehorse wagering, or winnings paid out to patrons on racehorse wagering, and defines "racehorse wagering" as wagers placed on horse racing conducted under the pari-mutuel form of wagering at licensed racing facilities that are accepted in accordance with present law on pari-mutuel wagering and an approved agreement or approved plan of operation.

Proposed law provides that any commissions, fees, and other deductions on racehorse wagering shall be in accordance with present law.

Proposed law provides specific authority for the LGCB to reconsider and withdraw its approval of an agreement or plan of operation upon a finding of noncompliance with the terms of the agreement or plan.

Proposed law (HB 1055 of the 2022 Regular Session) provides for the LSRC to promulgate rules setting forth minimum standards and infrastructure investments required of each association for facility maintenance and improvements, such as minimum standards for track surface, barns, grand stands, and paddocks in order for the association to be eligible to conduct race meets at a particular track. Requires facility improvements to be included in the plan of operation guidelines set forth in present law and defines "facility maintenance" and "facility improvements".

Proposed law defines "gross profits", "state tax", and "taxable net slot machine proceeds".

Proposed law requires that, after July 1, 2023, 10% of gross profits are to be deposited into the facility maintenance and improvement fund until all commission-required facility maintenance and improvements have been completed. Requires the deposits to be made at the same time that the state tax is paid.

Proposed law provides that after initial maintenance and improvements have been completed satisfactorily, each association is required to maintain a minimum fund balance of \$3,000,000.

Proposed law provides that for the purposes of the initial maintenance and improvements, the following deadlines shall apply:

- (1) The commission shall promulgate rules establishing minimum standards of facilities and infrastructure investments no later than October 1, 2022.
- (2) Each association shall submit a plan for compliance to the commission no later than December 1, 2022.
- (3) The commission shall approve or specify deficiencies in each association's plan no later than February 1, 2023.
- (4) Each association shall complete the required maintenance and improvements to its facilities no later than December 31, 2023.

Proposed law provides that deadlines may be extended by a majority vote of the membership of the commission for extenuating circumstances including force majeure. Provides that the failure of an association to meet deadlines shall constitute grounds for just cause for the commission to deny or terminate racing privileges.

Proposed law provides that, if it determines that an association is in compliance with the minimum standards and infrastructure investments, the commission may, by a 2/3s vote of the membership, authorize any of the following:

- (1) Exempt an association from maintaining the minimum fund balance required by proposed law.
- (2) Exempt the association from making deposits as required by proposed law.
- (3) Allow the balance of an association facility maintenance and improvement fund be withdrawn or reduced.

Proposed law authorizes the commission to reconsider compliance with proposed law at any time and revoke any exemption or allowance for noncompliance.

Present law provides for the LGCB to grant or deny licenses to racetracks to operate slot machines on the racetrack grounds. Provides for the licenses to be for 5 years.

Proposed law provides that notwithstanding present law, upon notification from the Louisiana State Racing Commission that the racetrack is not in compliance with the minimum standards for facility maintenance and improvements but is cooperating with the commission and working towards compliance, the LGCB may grant or renew a license for a probationary period not to exceed one year. Provides that barring extenuating circumstances as determined by the board, the probationary period shall not be extended beyond one year. Provides that after the probationary period, the board shall either grant or renew the license for the remainder of the term or revoke the license.

Provides that the provisions of this Act shall supercede the conflicting provisions of the Act which originated as House Bill No. 1055 of the 2022 Regular Session.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 4:149, 164, 211, 213, 214, and 226(B)(1) and R.S. 27:602(13); adds R.S. 4:147(7), 215(D), and 228(H) and R.S. 27:361(E)(3), 393.1, 602(18.1), 607(H), and 629)