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OHIO LEGISLATIVE SERVICE COMMISSION

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Synopsis of Conference Committee Amendments

H.B. 29 of the 134th General Assembly

Emily E. Wendel, Attorney

The Conference Committee on H.B. 29 recommends the bill as passed by the Senate with the following changes:

Veterans identification cards

- Removes the provisions of the House-passed bill, which allowed a person who was discharged from the United States Public Health Service or the National Oceanic and Atmospheric Administration to obtain an Ohio veterans identification card.

Intercollegiate athletes' names, images, and likenesses

- Removes provisions of the Senate-passed bill concerning intercollegiate athletes' names, images, and likenesses, as those provisions were enacted in identical form in H.B. 110 of the 134th General Assembly.

Charitable bingo

- Removes provisions of the Senate-passed bill allowing certain charitable organizations to conduct electronic instant bingo and making several other changes to the Bingo Law, as those provisions were enacted in similar form in H.B. 110 of the 134th General Assembly.
- Eliminates a requirement in law that an individual who installs, maintains, updates, or repairs an electronic instant bingo system hold an occupational license from the Ohio Casino Control Commission (OCCC), in addition to a license endorsement for the distributor's business, as required under continuing law.

Sports gaming

Permitted wagers

- Removes a provision of the bill that would have allowed sports gaming proprietors to offer wagering on horse racing, other than pari-mutuel wagering, but retains the current law that allows pari-mutuel wagering on horse racing at racetracks.
 - Allows wagering on esports events, meaning organized video game competitions that are regulated by a sports governing body and that are held between professional players who play individually or as teams.
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- Removes language from the bill stating that the General Assembly intends to introduce comprehensive legislation governing wagering on esports events.
- Modifies the bill's definition of a proposition bet, which is a permitted form of wagering, to include bets on instances or statistical achievements other than the score or outcome of the sporting event or parts of the sporting event, but not to include all in-game wagers.

Type A sports gaming

Type A sports gaming proprietor licenses

- Allows OCCG to issue additional type A sports gaming proprietor licenses, beyond the bill's limit of 25 licenses at any one time, to eligible applicants who demonstrate that Ohio's sports gaming market needs additional type A sports gaming proprietors.
- Limits a type A sports gaming proprietor who receives a license under that provision to one mobile management services provider contract instead of two.
- Requires a type A sports gaming proprietor that does not also operate a sports gaming facility in Ohio to maintain at least one operational place of business in Ohio at which the proprietor regularly maintains multiple employees.
- Removes from one part of the bill, but retains in another section, a requirement that the servers responsible for accepting wagers through online sports pools be located in a secure facility in Ohio.
- Modifies the bill's license fees for type A sports gaming proprietors based on the nature of the proprietor's business and the number of mobile management services providers with which the proprietor contracts.
- Extends the term of type A sports gaming proprietor licenses issued under the bill from three years to five years.

Mobile management services provider licenses

- Allows only a type A sports gaming proprietor that is a professional sports organization or a casino or racino operator to contract with a second mobile management services provider, and only if certain conditions are met.
- Modifies the bill's license fees for mobile management services providers based on the nature of the type A sports gaming proprietor with which the provider contracts and whether the provider is a first or second contractor.
- Specifies that a mobile management services provider must have one license for each type A sports gaming proprietor with which the provider contracts.
- Extends the term of mobile management services provider licenses issued under the bill from three years to five years.

Type B sports gaming

Type B sports gaming proprietor licenses

- Changes the bill's license fees for type B sports gaming proprietors based on the nature of the proprietor's business.
- Extends the term of type B sports gaming proprietor licenses issued under the bill from three years to five years.

Management services provider licenses

- Changes the bill's license fees for management services providers based on the nature of the type B sports gaming proprietor's business.
- Specifies that a management services provider must have one license for each type B sports gaming proprietor with which the provider contracts.
- Extends the term of management services provider licenses issued under the bill from three years to five years.

Sports gaming facilities

- Creates an exception to the bill's prohibition against a sports gaming facility being located in a county with a population of less than 100,000.
- Allows OCCC to license one sports gaming facility in a county with a population of 50,000-99,999 if OCCC determines, in consultation with the Department of Development, that the county received at least 5 million visitors for purposes of tourism during the most recent calendar year for which the necessary data are available.
- Allows a county with a population between 100,000 and 399,999 to have two sports gaming facilities instead of one, if the county has a racino.
- Eliminates a provision of the bill that requires OCCC, in issuing type B sports gaming proprietor licenses, to consider whether the current or proposed locations of sports gaming facilities are distributed equitably among all regions of the state.
- Removes from the bill a requirement that OCCC adopt, by rule, requirements concerning the size, furnishings, and equipment of a sports gaming facility and the minimum capital investment for such a facility.
- Requires instead that an application for an initial type B sports gaming proprietor license specify the expected overall capital investment in the sports gaming facility, including its size, furnishings, and equipment.

Type C sports gaming

Type C sports gaming proprietor licenses

- Requires OCCC to license at least two type C sports gaming proprietors, unless only one eligible and suitable person applies.

- Extends the term of type C sports gaming proprietor licenses issued under the bill from three years to five years.

Type C sports gaming host licenses

- Eliminates the bill's requirements that an applicant for an initial or renewed type C sports gaming host license undergo a criminal background check and a licensure suitability investigation conducted by OCCC.
- Requires OCCC to license any eligible applicant for a type C sports gaming host license that the State Lottery Commission (LOT) recommends.
- Requires OCCC to investigate the applicant only to determine the applicant's eligibility for the license and to ensure that the applicant complies with the bill and with OCCC's rules.
- Reduces the license fee for a type C sports gaming host from \$2,000 to \$1,000 every three years.
- Requires the type C sports gaming host to notify OCCC of each type C sports gaming host that offers sports gaming through the type C sports gaming proprietor, instead of requiring the host to include that information in its application.

Lottery sports gaming

- Requires LOT to operate lottery sports gaming as part of the statewide lottery under the oversight of OCCC.
- Requires LOT to contract with each type C sports gaming proprietor to operate lottery sports gaming on behalf of LOT in exchange for a portion of the state's proceeds from lottery sports gaming.
- Requires lottery sports gaming to operate in the same manner as type C sports gaming was required to operate under the Senate-passed bill, and maintains OCCC regulation of type C sports gaming proprietors and hosts.
- Makes several changes concerning type C sports gaming on self-service and clerk-operated terminals located in type C sports gaming hosts' facilities, including the number and location of the terminals, the types of wagers to be offered, the accepted methods of payment, and the methods of paying out winnings to patrons.
- Specifically excludes any receipts that a type C sports gaming proprietor receives from lottery sports gaming from the bill's tax on sports gaming receipts.

Professional sports organizations

- Modifies the bill's definition of a professional sports organization for purposes of those organizations' eligibility for a licensing preference as a sports gaming proprietor.
- Specifies that if the owner of a sports facility in Ohio that hosts an annual tournament on the Professional Golf Association Tour is a nonprofit corporation or organization, a

wholly owned for-profit subsidiary of the owner may be considered the owner for licensing purposes, as the bill prohibits a nonprofit corporation from receiving a license.

- Limits to professional sports organizations provisions of the bill that allow the holder of a sports gaming proprietor license that is a member of a league, association, or organization that prevents it from being involved in sports gaming to appoint a management services provider as the professional sports organization's designee operator.

Sports governing bodies

Official league data

- Removes provisions of the bill that require sports gaming proprietors, at the request of the appropriate sports governing body, to use official league data to determine the outcomes of proposition bets.

Confidential information

- Adds to the bill's current requirement that a sports gaming proprietor maintain the confidentiality of any confidential information provided by a sports governing body.
- Prohibits the sports gaming proprietor from using such confidential information for business or marketing purposes without the sports governing body's express written approval.
- Requires a sports governing body likewise to maintain the confidentiality of any confidential information provided by a sports gaming proprietor.
- Prohibits the sports governing body from using such confidential information for business or marketing purposes without the sports gaming proprietor's express written approval.

Administrative oversight

License suitability

- Applies to applicants for initial or renewed type B and type C sports gaming proprietor licenses the economic development related suitability factors that currently apply only to applicants for type A sports gaming proprietor licenses under the bill.
- Requires OCCC to consider the total amount of taxable income the applicant pays, or will pay, to its employees in Ohio instead of whether that total has been, or will be, at least \$10 million.
- Requires applicants for initial and renewed mobile management services provider, management services provider, and sports gaming supplier licenses to meet the same general license suitability factors as sports gaming proprietors.
- Eliminates a requirement that OCCC consider, as part of that suitability investigation, the total taxable income the applicant pays, or will pay, to its employees in Ohio, but retains a similar suitability factor for type A sports gaming proprietors.

- Requires OCCC to investigate the suitability of any person that controls an applicant for an initial or renewed sports gaming supplier license, the same as for a sports gaming proprietor, mobile management services provider, or management services provider license.

Applicants for sports gaming licenses

- Defines an applicant, for purposes of the bill's sports gaming provisions, as a person that applies to OCCC for a license, but does not substantively change the bill's current references to applicants.
- Prohibits OCCC from disclosing to the public any information that OCCC receives from another jurisdiction relating to a person who holds, held, or has applied for a sports gaming license, instead of information relating to "an applicant" who holds, held, or has applied for such a license.

Equity in sports gaming licensure

- Requires the Director of Administrative Services to engage an independent consultant to conduct a study to determine whether, and the extent to which, qualified persons experience discrimination or disadvantage in the sports gaming industry on the basis of race, color, ethnicity, gender, or disability.
- Requires OCCC, if warranted by the results of the study, to establish goals to ensure that sports gaming licenses are issued to disadvantaged applicants on an equitable basis with other applicants and to disseminate information about those goals through targeted media.
- Allows OCCC to require, by rule, that sports gaming proprietors pay the cost of disseminating that information through targeted media.

Monitoring system

- Removes a provision of the bill that requires OCCC to give a sports governing body access to anonymized sports gaming data from OCCC's monitoring system if the sports governing body believes that the integrity of one of its sporting events is in question.
- Requires instead that OCCC prescribe a procedure for a sports governing body to obtain anonymized sports gaming data directly from a sports gaming proprietor in such a case.
- Requires OCCC also to prescribe a procedure for a state university in Ohio to obtain anonymized sports gaming data from a sports gaming proprietor for the purpose of conducting certain research.
- Prohibits the university from redisclosing the data, except for research purposes or pursuant to an agreement with the sports gaming proprietor.

Advertising sports gaming

- Modifies the provision of the bill that requires OCCC to adopt restrictions concerning advertisements for sports gaming.

- Adds requirements that those advertisements clearly convey the conditions under which sports gaming is being offered, disclose the identity of any management services provider, and include messages designed to prevent problem gambling.

Exclusion from sports gaming

- Requires OCCC to follow the same procedures and criteria when adding individuals to OCCC's involuntary exclusion list for sports gaming as it does for the continuing law involuntary exclusion list for casino gaming.
- Allows OCCC's Executive Director to issue an emergency order adding a person to the sports gaming involuntary exclusion list, using the same procedures as under continuing law regarding casino gaming.
- Removes a provision specifying that a person who is participating in the voluntary exclusion program under the Casino Law is automatically prohibited from participating in sports gaming under the bill.
- Requires instead that OCCC establish, by rule, a separate sports gaming voluntary exclusion program, which must meet the same statutory requirements as the casino program.
- Requires a sports gaming proprietor to employ commercially reasonable methods to prevent any participant in the sports gaming voluntary exclusion program from engaging in sports gaming conducted by the sports gaming proprietor.
- Absent gross negligence, grants the state and sports gaming licensees immunity from any civil liability on the basis that a participant in the sports gaming voluntary exclusion program enters or accesses a sports gaming facility or participates in sports gaming conducted under the bill.
- Requires OCCC and LOT to determine, by rule, whether a participant in the sports gaming voluntary exclusion program also automatically becomes a participant in their respective casino and racino exclusion programs. (Currently, the commissions operate a single voluntary exclusion program for casinos and racinos by joint agreement.)
- Prohibits OCCC from automatically enrolling a person in the sports gaming voluntary exclusion program on the sole basis that the person is a participant in the casino and racino voluntary exclusion program as of the bill's effective date.
- Specifies that a sports gaming proprietor still may exclude a person on that basis.

Information technology and security

- Requires each sports gaming proprietor to submit to OCCC, at least once every three years, an audit of the sports gaming proprietor's information technology systems and security protocols.

Enforcement of Sports Gaming Law

- Requires OCCC to follow the same procedures in enforcing the Sports Gaming Law under the bill as OCCC currently follows with respect to the Casino Law.
- Gives OCCC and its executive director the same enforcement powers over sports gaming as they currently have over casino gaming, including the ability of the executive director to issue emergency license suspensions.

Limits on regulatory restrictions

- Removes provisions of the bill that exempt OCCC and LOT, for one year, from the requirement to remove two or more existing regulatory restrictions in order to adopt a new regulatory restriction.
- Permanently excludes rules concerning sports gaming from limitations on agencies' regulatory restrictions.

Withholding from sports gaming winnings

- Modifies the bill's requirement that a sports gaming proprietor withhold a patron's debts to the state or a political subdivision before disbursing any sports gaming winnings over a certain amount.
- Adds a specific reference to the withholding threshold being determined under section 6041 of the Internal Revenue Code, instead of under the Internal Revenue Code in general.

Taxation of sports gaming receipts

- Removes a provision that would have allowed a sports gaming proprietor with negative receipts for a particular day (i.e., winnings paid out exceed the amount wagered) to carry forward the deficit to future tax returns until the proprietor's receipts are greater than zero.
- Removes a provision that would have allowed a proprietor that surrenders its license and whose last return reported a deficit to receive a refund of 10% of that deficit.
- Subjects a person who operates sports gaming in Ohio without a license to the sports gaming receipts tax.

State revenues from sports gaming

- Allocates 0.5% of the license fees paid by sports gaming proprietors, mobile management services providers, and management services providers to the Sports Gaming Profits Veterans Fund, created by the bill.
- Requires the Department of Veterans Services to administer the fund and to use it for a variety of purposes, including providing direct supports for veterans and their families or providing additional funding for county veterans service commissions.

Universal start date and initial licenses

- Requires OCCC's Executive Director to designate a universal start date for sports gaming in Ohio that is not later than January 1, 2023, and prohibits any person from offering sports gaming before that date.
- Requires the Executive Director to set a series of deadlines by which persons must apply for sports gaming licenses in order to begin operating under the licenses on the universal start date.
- Allows the Executive Director to issue provisional sports gaming licenses through June 30, 2023.

Joint Committee on Sports Gaming

- Creates the Joint Committee on Sports Gaming, consisting of three members of the House of Representatives and three members of the Senate.
- Requires the Committee to monitor the implementation of sports gaming under the bill and to report its recommendations, if any, to the General Assembly.
- Specifies that the Committee ceases to exist two years after the bill takes effect.

Ohio Casino Control Commission, generally

Exclusion programs

- Clarifies that OCCC is not required to hold an adjudication hearing before placing a person on an involuntary exclusion list if the person does not request a hearing.
- Specifies that the Commission may reopen an adjudication concerning an involuntary exclusion at any time.
- Codifies OCCC's ability to share its voluntary exclusion list with LOT for purposes of the continuing joint voluntary exclusion program for casinos and racinos, currently operated by administrative rule.

Gaming agents

- Expands the current definition of peace officer that applies throughout the Revised Code to also include OCCC's gaming agents, who are considered peace officers under other provisions of law.
- Makes numerous provisions of existing law related to arrests, warrants, and other criminal law matters apply to gaming agents, including increased penalties for assault when the victim is a peace officer.

Fines and penalties

- Requires OCCC to hold an adjudication hearing under the Administrative Procedure Act before fining or penalizing an applicant, licensee, or other person subject to OCCC's jurisdiction, if the person requests a hearing, similar to continuing law governing casino license suspensions and revocations.

Ohio Lottery

iLottery

- Removes provisions of the bill that create the Select Committee on iLottery to study the potential effect of online lottery ticket sales on retail lottery ticket sales in Ohio.

Withholding from lottery winnings

- Removes provisions of the bill that change the threshold at which LOT must withhold a participant's past due child or spousal support and any debts to the state or a political subdivision before disbursing a lottery prize award.
- Retains the current law threshold, which is the Internal Revenue Service reporting threshold, instead of changing the threshold to \$600.
- Retains a provision of the bill that changes the state income tax withholding threshold for lottery prize awards from \$4,000 to the Internal Revenue Service threshold.

Casinos

Debt limitations

- Eliminates a provision of law that generally requires a casino operator to obtain OCCC's approval before acquiring debt of \$500,000 or more.

Taxation of casino revenue

- Subjects a person who operates casino gaming in Ohio without a license to the gross casino revenue tax.

Horse racing

- Modifies the law concerning the distribution of the 3% of the state's casino tax revenue that, under the Ohio Constitution, must be deposited in the Ohio State Racing Commission Fund to promote horse racing.
- Increases, from 5% to 10%, the amount of the money in the fund that the Commission may retain for operating expenses necessary to administer the fund.

Technical changes

- Updates the versions of several sections of law, as they appear in the bill, to reflect recently enacted changes and to carry forward the bill's provisions.
- Corrects several incorrect cross-references in the bill.