

RACING & GAMING COMMITTEE
February 4, 2021 3:00 p.m.

AGENDA

Chair: Benny Zlotnick

Members:

Preston Allen
Ed Kinowski
Jack Lawler
Bill Peck
Dan Pemrick
Sandra Winney

- I. Welcome and Attendance
- II. Approval of the minutes of the August 10, 2020 meeting
- III. Appointment of a Vice-Chair
- IV. Proposed legislation to remove payments to horsemen purses – Skip Carlson, Saratoga Casino Hotel
- V. Other Business
- VI. Adjournment

Due to public health and safety concerns related to COVID-19, there is limited capacity in the Boardrooms. The public will have an opportunity to hear the meeting live via an audio signal using this call-in number and access code:

Dial: 1-978-990-5145
Access Code: 1840389

TIMES UNION ARTICLE

Budget could boost casino Cuomo's plan includes halt to racino subsidy, easing slot-tax burden

The written summary of the executive budget released Tuesday by Gov. Andrew Cuomo will be reshaped by endless hours of negotiation, the evolving COVID crisis and plenty of old-fashioned horse-trading.

The difference this time is there are some actual horses involved — running around Saratoga Raceway, pulling sulkies.

The budget proposal contains five items that will affect the gambling industry. One of the proposals identifies by name the Capital Region's two gambling halls, Rivers Casino and Saratoga Casino: a suspension of the payments that Rivers is required to make to the horsemen who own and train the standardbred harness horses running at Saratoga Casino for the duration of the COVID crisis and at least six months after it ends.

The other four proposals are just as relevant to the industry, if not directly to particular casinos:

*Allowing the four nontribal casinos to petition the state to cut its tax on slot machine revenue to as little 25 percent; it's currently 45 percent for Rivers and 37 percent or 39 percent for the others. In the last normal fiscal year, before COVID, Rivers generated \$57.9 million in tax revenue, 91 percent of it from slots; the city and county of Schenectady each got 5 percent of this, or \$2.9 million.

*Setting up mobile electronic sports gambling as a state enterprise run under contract by a private firm, rather than as a state-licensed, state-taxed private enterprise, which Cuomo says would yield much less revenue. u Discontinuing the host community benefit the state pays to local governments for hosting a video gambling/ horse racing operation known as a racino. Saratoga Casino paid \$60 million in taxes to the state in the last normal fiscal year; Saratoga Springs got \$2.33 million and Saratoga County got \$775,198.

*Taking the first steps in the process to potentially award the three casino licenses never issued among the seven authorized statewide.

GIVE AND TAKE

A lot of things are proposed in a state budget process. Typically, the governor and legislative majority leaders hash them out privately and the rank-and-file legislators get to vote on a final spending plan soon before the March 31 deadline, with not a lot of time to review it and with limited tolerance from their party leaders for dissent.

Three of Cuomo's five proposals are money producers for the cash-strapped state: authorizing new casinos that would pay taxes; grabbing millions from racino host communities; and maximizing state benefit from mobile sports betting.

A casino slot tax rollback, by contrast, would directly contradict this, and be a money loser for the state. Slot machines are the biggest source of revenue for New York casinos and generate by far the biggest portion of the gaming tax casinos pay to the state. (The summary of Cuomo's budget that was issued doesn't guarantee a tax cut, only the right to petition for one.)

Finally, the suspension of the subsidy paid to the Saratoga horsemen is a straight-up benefit for Rivers in Schenectady, with no apparent impact on state tax revenue. Rivers no doubt believes it to be an issue of fundamental fairness, as no other New York casino must pay such a subsidy.

But how many thousands of other questions of fairness across New York could be addressed in the \$193 billion state budget for 2021-2022? One person who spoke to The Daily Gazette about the proposal was surprised to see Rivers mentioned by name in the budget summary.

CASINO REACTION

Rivers gave a multipart comment on the governor's proposals Wednesday. uThe pandemic is an ongoing disaster for the economy, a spokesman told The Gazette via email: "We are encouraged that the Governor's budget prioritizes revenue to the state, stabilization of the upstate casinos, and the preservation and creation of casino jobs. We are pleased that the Governor's budget recognizes that casino industry jobs and revenue will contribute greatly to Schenectady's economic recovery." u Rivers, no surprise, applauded Cuomo's proposed suspension of payments to the Saratoga horsemen: "The gaming statute never intended to place a struggling Rivers Casino on the hook to make up revenue declines at Saratoga caused by an unforeseen catastrophe like the COVID-19 pandemic. The Governor's budget proposal eliminates the windfall to Saratoga Casino and Raceway and the breeders fund for the period during which Rivers and Saratoga were impacted by COVID-19." uRivers also supports increasing the number of casinos in New York; it views itself and markets itself as a regional casino rather than a destination casino, and doesn't believe it would be harmed by new facilities opening in distant parts of the state: "We support the expansion of bricks and mortar casinos in New York State — recognizing the high value that casino industry jobs provide to the state's economic recovery." uRivers didn't take a position Wednesday on how mobile sports betting should be designed in New York state — as a state operation run by a contractor or a private-sector endeavor taxed by the state — but said it is looking forward to being part of the process of bringing the technology into use here. (Rush Street Interactive has mobile sports betting operations in six states, none of them with the public-private model Cuomo proposes.)

Rivers offered no comment Wednesday on the potential reduction of its slot machine tax, which is substantially higher than that paid by the other three casinos. But Greg Carlin, co-founder and CEO of parent company Rush Street Gaming, told The Gazette in 2019 that the high tax rate was a big problem.

"The one difference between New York and the other states where we operate, and this is something we didn't really anticipate, is the tax rate differential on slot machines. We really underestimated how it was going to impact our competitiveness," he said. Saratoga Casino did not respond to a request for comment for this story.

MONEY MOVES

Jeff Cantine of Ballston Spa, president of the Saratoga Harness Horsepersons Association, said Cuomo's proposed suspension of the money paid by Rivers came as a surprise — the first he heard about it was in news reports.

“Unfortunately, the draft budget bill is one-sided,” he said via email. “SHHA has grave concerns regarding its impact on our members and the greater community because we depend upon the purse support payments to keep racing alive. We intend to make our voices heard and hope to work with the Executive to improve the legislation.”

Cantine has been involved in harness racing for more than 40 years; his wife, Jacqueline, runs a small stable and races two or three horses each season at Saratoga.

He said the horsemen rely on the payments from Rivers for what is a fairly low-margin business, and losing that money could pose an existential threat to some owners and trainers. As it is, the horsemen missed out on more than \$800,000 that Rivers didn't pay in 2020, and there's no discussion now of recouping that money.

Meanwhile, Todd Kusnierz, chairman of the Saratoga County Board of Supervisors, said there's always a lot of horse-trading in budget negotiations, but the dynamics have changed from the 28 years when he worked in the state Legislature. The Republicans lost control of the state Senate and then the Democrats, who run both houses of the Legislature, gained a potentially veto-proof super-majority.

The state has suspended VLT host community aid previously, during the fiscal crisis of the late 2000s, then restored it; subsequent proposals to end it have been dropped in budget negotiations as recently as 2020. Kusnierz doesn't know how this latest attempt will play out. “I have my fingers crossed,” he said. “The state budget should not be balanced on localities like the city of Saratoga Springs and Saratoga County.” He rejected Cuomo's rationale that the economic benefits of hosting a video lottery terminal casino make the host benefit aid unnecessary. “I was there when the original VLT legislation was drafted, negotiated, debated and ultimately approved,” he said. “These funds are now vital to the communities.” Asked if he saw any irony in Cuomo trying to take money from communities that are fighting COVID even as he demands the federal government give the state money to deal with COVID and its aftermath, Kusnierz said he did. The county has allocated more money just to emergency COVID response than it will receive in VLT aid, he said, and Saratoga Springs' tourism- and travel-dependent economy has been clobbered.

SPORTS BETTING

Legal wagering on sports began in New York in the summer of 2019, but only in the four casinos — not on computers or smart devices. Momentum has been building to end this exception, to capture revenue from New Yorkers who are betting electronically in other states.

The Assembly Racing and Wagering Committee has been working on its own proposal for mobile sports betting. It would go in the opposite direction from Cuomo's, and open the market to Rivers and other private-sector operators rather than make it a state enterprise.

Committee member Angelo Santabarbara, D-Rotterdam, said there's a fundamental difference of opinion at play.

He bases his support on benefit for the Schenectady region: If Rivers does well, the region does well, he said Wednesday, after the committee voted to approve its version.

If the revenue goes to the casino, some of it stays in the community. If the revenue goes to the state, it all lands in a state account, and maybe some of it comes back to the community in the future.

Attempts by other states to do what Cuomo proposes — reserve the technology and most of its rewards for state government — have not fared well, he added. So many other businesses have moved to online operations during the pandemic, Santabarbara said, that Rivers should get a shot now. He said there are many more proposals to raise money for the state, some publicized, some not, some still to come. “What everyone is doing right now is looking for ways to generate revenue,” he said. “Some will work and some will not. There’s going to be a lot more.” Santabarbara wasn’t sure if he’d support slashing slot machine taxes — 10 percent of that revenue stays in the county and another 10 percent is divided among seven nearby counties. “It’s something that requires more discussion and clarification, and we need to understand the impact it would have on our community,” he said. Santabarbara represents the western part of the city of Schenectady.

Phil Steck, D-Colonie, represents the eastern part, and his district includes Rivers Casino. For that reason, Steck supports the casino and supports proposals that boost the casino, even though he would not support legalized gambling if it didn’t already exist. He’s got mixed opinions on the governor’s latest proposals. “They’ve been lobbying for a reduction in their tax rate for some time,” Steck said of Rivers, adding that cutting the slot machine tax would be good if the casinos were required to use the savings for marketing. (One of Rivers’ main competitors is MGM Springfield in Massachusetts, which pays a 25 percent tax and markets itself to the Capital Region, where Rivers is paying 45 percent.) Who should get into the mobile sports betting business? He’s neutral on that. The private sector isn’t always better than the public sector at running businesses, Steck said, but it usually has more experience operating businesses. “Rivers has more experience than government, so it might make sense,” he said. The subsidy Rivers pays to the harness horse trainers should be ended, not paused, Steck said. “Eliminating payment to the so-called horsemen’s fund, I totally support that. I don’t feel that there’s any reasonable grounds for the Schenectady operation to be subsidizing the racino in Saratoga,” he said. Steck’s problem with the governor’s proposals is not in these details but in the larger picture: Cuomo would move the revenue stream a few million dollars in one direction and a few hundred million in another direction, rather than going after an obvious source of billions: Taxing stock market transactions. The state is willing to tax the middle class betting on roulette wheels and basketball games but not willing to tax wealthy investors betting on Wall Street, he said. The argument Cuomo’s budget director raised last week against taxing the highly computerized, highly portable world of stock trading — if you tax it they will leave — is spurious, Steck said. The financial industry could move its computer servers to the North Pole or Bora Bora, he said, but by U.S. Supreme Court precedent, the transaction is taxed where it originates, not where the computer executing the transaction is plugged in. Steck estimates a 0.25 percent tax would generate \$13 billion a year. Cuomo says the state has a \$15 billion deficit. “Gambling is not a solution to the state’s problems,” Steck said. “It’s a tax on the middle class.”