

Date: (Filing No. H- )

VETERANS AND LEGAL AFFAIRS

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 876, L.D. 1280, Bill, "An Act To Provide Income Tax Relief by Expanding Gaming Opportunities"

Amend the bill by striking out the title and substituting the following:

'An Act To Establish a Competitive Bidding Process for the Operation of a Resort-style Casino in Southern Maine'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 5 MRSA §12004-G, sub-§32-A is enacted to read:

32-A.

Sport and Entertainment Casino Development Commission Legislative Per Diem and Expenses 8 MRSA §1005-A

Sec. 2. 8 MRSA §1001, sub-§6-A is enacted to read:

6-A. Commission. "Commission" means the Casino Development Commission created under section 1005-A.

Sec. 3. 8 MRSA §1003, sub-§2, ¶B, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

B. Hear and decide all license and registration applications under this chapter and issues affecting the granting, suspension, revocation or renewal of licenses and registrations, including but not limited to applications received by the board from a person awarded the privilege by the commission to submit an application to operate a casino;

Sec. 4. 8 MRSA §1003, sub-§2, ¶B-1 is enacted to read:

B-1. Hear and decide issues affecting the granting, suspension, revocation or renewal of licenses and registrations;

COMMITTEE AMENDMENT

1           **Sec. 5. 8 MRSA §1005-A** is enacted to read:

2           **§1005-A. Casino Development Commission**

3           **1. Establishment.** The Casino Development Commission, established in Title 5,  
4 section 12004-G, subsection 32-A, shall carry out the functions specified in this chapter  
5 with regard to awarding the privilege to apply for a casino or slot machine operator  
6 license through a competitive bid process and establishing a contract with the winning  
7 bidder upon issuance of a casino operator license by the board. The commission is  
8 affiliated with the board as specified in this chapter.

9           **2. Members.** The commission consists of 5 members appointed by the Governor.  
10 All members must be members of the general public without affiliation to the gaming or  
11 hospitality industry. At least 3 of the commission members must have training or  
12 experience in at least one of the following fields: corporate finance, economics, law,  
13 economic development and accounting. A municipal employee, county employee,  
14 elected official or candidate for elective office may not serve as a commission member.

15           **3. Term of office.** Members of the commission serve 3-year terms, except that the  
16 Governor shall initially appoint one member for a term of one year, 2 members for a term  
17 of 2 years and 2 members for a term of 3 years. A vacancy is filled by appointment for  
18 the remainder of the unexpired term of that member. Members whose terms expire serve  
19 until their successors are appointed and confirmed. Members may serve no more than 2  
20 full consecutive terms on the commission.

21           **4. Confirmation.** Appointees to the commission must be reviewed by the joint  
22 standing committee of the Legislature having jurisdiction over gambling matters and are  
23 subject to confirmation by the Senate.

24           **5. Chair.** The commission members shall elect one member to serve as chair for at  
25 least a 2-year term.

26           **6. Quorum.** An action of the commission is not binding unless taken at a meeting at  
27 which at least 3 of the 5 members are present.

28           **7. Conflict of interest.** In addition to the restrictions imposed pursuant to Title 5,  
29 section 18, a commission member may not participate in any matter before the  
30 commission in which the commission member has a personal bias or any other conflict of  
31 interest as the commission determines, either on the commission's own motion or in  
32 response to a written complaint. During a commission member's term of service and for  
33 5 years after the end of that commission member's service, any person with a direct and  
34 substantial interest in a gambling activity or gambling facility, including accommodations  
35 and amenities associated with a gambling facility, may not employ or be represented by  
36 the commission member or a member of the commission member's immediate family.  
37 For the purposes of this subsection, "direct and substantial" means ownership or control  
38 of more than 10% of the voting securities of a gambling facility, of an associated  
39 accommodation or associated amenity of a gambling facility or of an entity in contract,  
40 consort or cooperation with a gambling facility key executive.

41           **Sec. 6. 8 MRSA §1011, sub-§2-B**, as enacted by PL 2011, c. 699, §1, is repealed.

42           **Sec. 7. 8 MRSA §1011, sub-§2-C** is enacted to read:

1           **2-C. Persons eligible for casino operator license on or after January 1, 2016.**  
2           Beginning January 1, 2016, the board may not accept an application for an initial license  
3           to operate a casino, slot machine facility or any other gambling facility for which the  
4           board has licensing authority, unless that application is submitted by a successful bidder  
5           for the privilege to submit an application to the board chosen pursuant to section 1011-A  
6           and the applicant has received approval by the voters of the municipality where the casino  
7           will be located.

8           **Sec. 8. 8 MRSA §1011-A** is enacted to read:

9           **§1011-A. Privilege to submit a casino operator license application for a southern**  
10           **casino pursuant to competitive bidding**

11           The commission shall develop a request for proposals designed to encourage  
12           vigorous bidding for the purpose of awarding one bidder the privilege to submit an  
13           application to the board for a casino operator license. The commission shall request bids  
14           for the privilege to submit an application to the board for a resort-style casino in either  
15           York County or Cumberland County. A request for proposals must instruct potential  
16           bidders to propose the scope of the gambling facility and amenities to be offered in  
17           conjunction with the facility and how the proposal will ensure that the proposed casino  
18           will provide the State with socially responsible economic growth while operating as a  
19           successful business for the operator, considering license fees, minimum capital  
20           investment requirements, regulatory standards and required rates of revenue distribution.  
21           The commission may require submission of documented expert analysis from a bidder to  
22           support the proposals submitted by the bidder.

23           **1. Consideration of bids for privilege to submit casino operator license**  
24           **application to the board.** A bidder seeking award of the privilege to submit an  
25           application to the board for a license to operate a casino in York County or Cumberland  
26           County shall comply with the requirements determined by the commission. The  
27           commission shall require that a proposal for the privilege to submit an application to the  
28           board for the operation of a casino include a nonrefundable application fee of \$250,000  
29           and an agreement to pay the costs of the board for processing an application and  
30           performing background investigations, as described in section 1018, subsection 1, if  
31           awarded the privilege to submit an application to the board for a license to operate a  
32           casino. The commission shall ensure that the request for proposals clearly identifies the  
33           deadline for submission and all bid requirements. The commission shall follow, as nearly  
34           as practicable, the provisions governing competitive bidding prescribed by Title 5,  
35           chapter 155, subchapter 1-A and rules adopted pursuant to that subchapter.

36           **2. Request for proposals; factors; southern casino.** When considering bids  
37           received in response to a request for proposals prescribed in subsection 1 for a location in  
38           York County or Cumberland County, the commission shall consider the following:

39           **A. Business and market factors, including:**

40                   (1) The bidder's commitment and capacity to make an initial minimum capital  
41                   investment of \$250,000,000 for a resort-style casino facility. Land acquisition,  
42                   license fees and off-site improvements are not considered to be part of the  
43                   minimum capital investment;

1                   (2) How the bidder's proposal can be expected to preserve existing jobs in the  
2                   State and the number of net new full-time and part-time jobs that can be expected  
3                   to be created by the operation of the proposed facility;

4                   (3) The extent to which the bidder's market plans suit the character of the region  
5                   and the local population in a way that encourages residents of the State to choose  
6                   to patronize the bidder's proposed facility as opposed to gambling facilities in  
7                   other states;

8                   (4) The potential created by the bidder's proposal to create commercial  
9                   development opportunities in the host location and surrounding communities  
10                  consistent with historic uses, regional character and local zoning and planning  
11                  requirements;

12                  (5) The potential gross and net income to be generated by the bidder based upon  
13                  documented, expert market analysis;

14                  (6) The extent to which the bidder's proposed facility can reasonably be expected  
15                  to serve as a significant regional and national tourism destination;

16                  (7) How the bidder's proposal will result in the highest potential benefit and the  
17                  highest prospective total revenues to the State from a bidder based upon  
18                  documented, expert financial analysis;

19                  (8) The bidder's proposed capital investment in a gambling facility, proposed  
20                  amenities associated with the facility and timing of capital investment  
21                  expenditures in terms of ensuring the facility is economically competitive in the  
22                  State and regionally; and

23                  (9) Other factors, properly disclosed in the commission's request for proposals,  
24                  that the commission determines to be relevant;

25                  B. Economic development factors, including:

26                         (1) The bidder's workforce development plan and the extent to which it will  
27                         maximize use of the State's existing labor force and create new jobs in the  
28                         marketplace;

29                         (2) The impact on economic development, existing and planned, in the region of  
30                         the proposed facility; and

31                         (3) Other factors, properly disclosed in the commission's request for proposals,  
32                         that the commission determines to be relevant;

33                  C. Site location factors, including:

34                         (1) The adequacy of transportation infrastructure surrounding the proposed  
35                         location of the gambling facility;

36                         (2) The need for additional public infrastructure expenditures at or immediately  
37                         surrounding the proposed location of the gambling facility;

1                   (3) Any negative impact of the proposed location of the gambling facility on the  
2                   municipality in which the facility is to be located, including but not limited to  
3                   traffic congestion, worsened road safety conditions and increased safety concerns  
4                   for pedestrian traffic;

5                   (4) The bidder's proposals for mitigating negative impacts identified under this  
6                   paragraph; and

7                   (5) Other factors, properly disclosed in the commission's request for proposals,  
8                   that the commission determines to be relevant; and

9                   D. Factors other than those listed in paragraphs A to C, including:

10                   (1) The bidder's plan to identify, address and minimize the potential for and  
11                   existence of negative consequences associated with gambling and the operation  
12                   of the bidder's proposed facility, including but not limited to a financial  
13                   commitment to efforts to address problem gambling prevention, intervention,  
14                   treatment and research;

15                   (2) The effects, both positive and negative, that can be reasonably anticipated to  
16                   be experienced by the municipality in which the facility is located and the  
17                   communities in the region; and

18                   (3) The likelihood that the bidder will meet the casino operator license  
19                   requirements described in section 1016.

20                   **3. Bid award factor priorities; southern casino.** The commission shall develop a  
21                   system of assigning points to the factors required to be considered under subsection 2.  
22                   The commission is authorized to hire or enter into a contract with vendors experienced in  
23                   evaluating business plans for large-scale development and the impacts of development on  
24                   the local and regional economies to assist with the consideration of bids and development  
25                   of the point system required by this subsection. The development of a point system must  
26                   ensure that factors that support the following are awarded the highest point value, with  
27                   the criteria listed under paragraphs A and B receiving more points than those listed under  
28                   paragraphs C and D:

29                   A. The overall increase in the number of jobs created in the region that can be  
30                   directly or indirectly attributed to the development and operation of the resort-style  
31                   casino;

32                   B. The positive impacts on economic development, existing and planned, from the  
33                   development and operation of the resort-style casino in the immediate region and the  
34                   potential to positively impact the state economy, including opportunities to pursue  
35                   developments that will create ongoing sources of revenue and employment for the  
36                   region separate from the resort-style casino;

37                   C. The maximum potential benefits from the operation of the proposed resort-style  
38                   casino on year-round tourism in the region; and

39                   D. The representation and incorporation by the proposed resort-style casino of the  
40                   character of the State generally and, in particular, the character of the surrounding  
41                   region consistent with historic uses, local planning and zoning requirements.

1 4. Notice of award. Upon award of the privilege to submit an application for a  
2 casino operator license to the board, the commission shall cite how the successful  
3 bidder’s proposal supported the priorities described in subsection 3.

4 5. Contract required; southern casino. A person who is selected as the winning  
5 bidder for the privilege to submit an application to the board for a casino operator license  
6 shall agree to enter into a contract with the commission that obligates the casino operator  
7 to the proposals made in the bid submitted in accordance with this section. In addition,  
8 the contract must include:

9 A. A framework of reasonable financial penalties for failure of the casino operator to  
10 comply with the terms of the contract and the circumstances under which failure to  
11 comply with terms of the contract justifies withholding all net slot machine income  
12 and net table game income until the terms of the contract are satisfied; and

13 B. Annual reinvestment requirements that direct the casino operator, beginning no  
14 sooner than 5 years after commencing operation of slot machines at the casino, to  
15 either make capital improvements to the casino facility or deposit with the board, in  
16 an account described in section 1018, subsection 2-B, an amount no less than 3% but  
17 no greater than 4% of net slot machine income and net table game income generated  
18 by the casino during the previous year.

19 The commission shall consult with the Office of the Attorney General during the  
20 negotiation and execution of the contract. The contract must be approved by the Attorney  
21 General. The casino operator license issued by the board does not take effect and the  
22 board may not accept the license fee required under section 1018, subsection 1, paragraph  
23 C-2 until the contract is executed.

24 **Sec. 9. 8 MRSA §1018, sub-§1, ¶C**, as enacted by PL 2003, c. 687, Pt. A, §5 and  
25 affected by Pt. B, §11, is amended to read:

26 C. The initial application fee for a slot machine operator license is \$200,000. The  
27 annual renewal fee is \$75,000 plus an amount, set by rules of the board, equal to the  
28 cost to the board of licensing slot machine operators and determined by dividing the  
29 costs of administering the slot machine operator licenses by the total number of slot  
30 machine operators licensed by the board. This paragraph applies to slot machine  
31 operator licenses initially issued before January 1, 2016.

32 **Sec. 10. 8 MRSA §1018, sub-§1, ¶C-1**, as amended by PL 2011, c. 417, §4, is  
33 further amended to read:

34 C-1. The initial application fee for a casino operator license is \$225,000, except that  
35 the initial application fee for an applicant that is a commercial track that was licensed  
36 to operate slot machines as of January 1, 2011 is \$25,000. The annual renewal fee is  
37 \$80,000 plus an amount, set by rules of the board, equal to the cost to the board of  
38 licensing casino operators and determined by dividing the costs of administering the  
39 casino operator licenses by the total number of casino operators licensed by the  
40 board. In addition, a casino operator shall pay an initial gaming table fee of \$100,000  
41 for the privilege to operate each gaming table for a period of 20 years as long as the  
42 casino operator is licensed. Each gaming table is also subject to an annual gaming  
43 table renewal fee of \$1,000. The gaming table fees authorize the casino operator to  
44 conduct any authorized table game at the gaming table during the 20-year period. A

1 casino licensed in accordance with section 1011, subsection 2-A, paragraph A is not  
2 required to pay the gaming table fees until after one calendar year of table game  
3 operation. Fees collected in accordance with this paragraph must be deposited to the  
4 Gambling Control Board administrative expenses Other Special Revenue Funds  
5 account, which is a nonlapsing dedicated account. This paragraph applies to casino  
6 operator licenses initially issued before January 1, 2016.

7 **Sec. 11. 8 MRSA §1018, sub-§1, ¶¶C-2, C-3 and C-4** are enacted to read:

8 C-2. The fee for a casino operator license for a casino in York County or  
9 Cumberland County, issued in accordance with section 1011-A, is \$10,000,000. The  
10 license fee must be deposited to the General Fund. The license fee is separate from  
11 the nonrefundable application fee required pursuant to section 1011-A, subsection 1  
12 and the payment of costs to the board for processing the application and performing  
13 background investigations.

14 C-3. The renewal fee for a casino operator license for a casino in York County or  
15 Cumberland County, issued in accordance with section 1011-A, is \$250,000 due 5  
16 years after the initial fee required under paragraph C-2.

17 C-4. The annual registration fee for a slot machine and a table game operated at a  
18 casino licensed on or after January 1, 2016 is \$100.

19 **Sec. 12. 8 MRSA §1018, sub-§1-A**, as enacted by PL 2011, c. 699, §2, is  
20 repealed.

21 **Sec. 13. 8 MRSA §1018, sub-§2**, as enacted by PL 2003, c. 687, Pt. A, §5 and  
22 affected by Pt. B, §11, is amended to read:

23 **2. Term of license issued before January 1, 2016; renewal; renewal fees.** ~~All~~  
24 Except for slot machine operator licenses and casino operator licenses issued on or after  
25 January 1, 2016, licenses issued by the board under this chapter are effective for one year,  
26 unless revoked or surrendered pursuant to subchapter 5. Upon proper application and  
27 payment of the required fees and taxes and in accordance with rules adopted by the board,  
28 the board may renew a license for an additional year if municipal approval has been  
29 obtained as provided in section 1012. The board shall transfer \$25,000 of the renewal fee  
30 required by subsection 1, paragraph C to the municipality in which the slot machines are  
31 operated.

32 **Sec. 14. 8 MRSA §1018, sub-§§2-A, 2-B and 3-A** are enacted to read:

33 **2-A. Term of license issued on or after January 1, 2016.** A casino operator  
34 license issued by the board pursuant to section 1011, subsection 2-C is effective for 5  
35 years after the date of issuance unless revoked or surrendered pursuant to subchapter 5.

36 **2-B. Annual reinvestment requirements; southern casino.** A casino operator  
37 licensed by the board pursuant to section 1011, subsection 2-C operating a casino in York  
38 County or Cumberland County may deposit with the board the percentage of net slot  
39 machine income and net table game income required as an annual reinvestment pursuant  
40 to the contract executed in accordance with section 1011-A, subsection 5. The board  
41 shall hold the funds in an interest-bearing, nonlapsing account. The casino operator may  
42 request funds from the account for the purpose of making capital investments or

1 improvements to the casino facility. If there are funds in the account and the casino  
2 ceases operation for a period of more than 90 days, the funds must be deposited to the  
3 General Fund.

4 **3-A. Licensee other than the original applicant; contract applicable.** If a person  
5 initially licensed to operate a casino after January 1, 2016 in York County or Cumberland  
6 County surrenders the license or the license is revoked, a subsequent licensee authorized  
7 by the board to operate the casino in accordance with this chapter is subject to the terms  
8 of the contract required by and executed under section 1011-A, subsection 5. A  
9 subsequent licensee is required to submit an application to the board and is subject to the  
10 licensing qualifications prescribed under section 1016.

11 **Sec. 15. 8 MRSA §1019, sub-§6,** as amended by PL 2011, c. 417, §5, is repealed.

12 **Sec. 16. 8 MRSA §1019, sub-§7,** as amended by PL 2011, c. 417, §6, is repealed.

13 **Sec. 17. 8 MRSA §1020, sub-§3,** as amended by PL 2011, c. 585, §8, is further  
14 amended to read:

15 **3. Limits on total slot machines.** The board shall determine the number of slot  
16 machines to be registered in the State for casinos initially licensed prior to January 1,  
17 2016. The board shall make this determination based upon the minimum net slot  
18 machine income, when distributed pursuant to section 1036, necessary to maintain the  
19 harness horse racing industry in this State, except that:

20 A. Except for slot machines used for training and educational purposes at  
21 postsecondary institutions as provided by section 1011, subsection 1-B, the total  
22 number of slot machines registered in the State for operation at casinos initially  
23 licensed prior to January 1, 2016 may not exceed 3,000; and

24 B. A slot machine operator initially licensed prior to January 1, 2016 may not  
25 operate more than 1,500 slot machines at any one commercial track and a casino  
26 operator initially licensed prior to January 1, 2016 may not operate more than 1,500  
27 slot machines at a casino.

28 **Sec. 18. 8 MRSA §1036, sub-§2-D** is enacted to read:

29 **2-D. Distribution of slot machine and table game income from a casino in York**  
30 **County or Cumberland County.** A casino operator licensed to operate a casino in York  
31 County or Cumberland County pursuant to section 1011-A shall collect and distribute  
32 35% of net slot machine income and 16% of net table game income to the board. The  
33 distributions must be held by the board until a distribution is established by the  
34 Legislature for net slot machine income and net table game income generated by a casino.

35 **Sec. 19. 8 MRSA §1036-A** is enacted to read:

36 **§1036-A. Distributions of slot machine and table game income upon operation of a**  
37 **gambling facility licensed after January 1, 2016**

38 The board may not make distributions as provided by section 1036, subsections 1, 2,  
39 2-A, 2-B and 2-C after the commencement of operations of a gambling facility subject to  
40 licensure by the board initially licensed after January 1, 2016. Net slot machine income  
41 and net table game income collected by a casino operator or slot machine facility operator



1 in accordance with section 1036, subsections 1, 2, 2-A, 2-B and 2-C must be held by the  
2 board until a distribution of 35% of net slot machine income and a distribution of 16% of  
3 net table game income is established by the Legislature that provides for a distribution of  
4 net slot machine income and net table game income that applies, in the same manner, to  
5 each gambling facility licensed in accordance with this chapter.

6 **Sec. 20. Statutory referendum procedure; submission at election; form of**  
7 **question; effective date.** This Act must be submitted to the legal voters of the State at  
8 a statewide election held in the month of November following passage of this Act. The  
9 municipal officers of this State shall notify the inhabitants of their respective cities, towns  
10 and plantations to meet, in the manner prescribed by law for holding a statewide election,  
11 to vote on the acceptance or rejection of this Act by voting on the following question:

12 "Do you favor the operation of a resort-style casino, licensed pursuant to  
13 a competitive bid process, in either York County or Cumberland  
14 County?"

15 The legal voters of each city, town and plantation shall vote by ballot on this question  
16 and designate their choice by a cross or check mark placed within a corresponding square  
17 below the word "Yes" or "No." The ballots must be received, sorted, counted and  
18 declared in open ward, town and plantation meetings and returns made to the Secretary of  
19 State in the same manner as votes for members of the Legislature. The Governor shall  
20 review the returns. If a majority of the legal votes are cast in favor of this Act, the  
21 Governor shall proclaim the result without delay and this Act becomes effective 30 days  
22 after the date of the proclamation.

23 The Secretary of State shall prepare and furnish to each city, town and plantation all  
24 ballots, returns and copies of this Act necessary to carry out the purposes of this  
25 referendum.'

## 26 SUMMARY

27 This amendment replaces the bill and is a minority report of the committee. The  
28 amendment establishes a competitive bid process for the operation of a resort-style casino  
29 in either York County or Cumberland County. The amendment establishes the Casino  
30 Development Commission, which is an independent board of 5 members appointed by  
31 the Governor and confirmed by the Senate. The commission's purpose is to develop a  
32 request for proposals for the privilege to submit an application to the Department of  
33 Public Safety, Gambling Control Board for a casino operator license. The fee to submit a  
34 bid is \$250,000. The amendment provides for specific supporting information to be  
35 submitted by the bidder and considered by the commission including the bidder's ability  
36 to make a minimum \$250,000,000 capital investment in the resort-style casino and  
37 information regarding job creation, economic development and plans to mitigate negative  
38 infrastructure impacts. Under the amendment, the commission is directed to develop a  
39 point system for the factors to be considered and give priority to factors that create jobs,  
40 promote economic development, increase tourism and support a casino that fits the  
41 character of the State, with job creation and economic development being the highest  
42 priorities. The winning bidder must enter into a contract with the commission that  
43 obligates the casino operator to abide by the proposals made in the winning bid. The  
44 contract includes a commitment of the casino operator to make annual reinvestments in

1 the facility of an amount no less than 3% but no greater than 4% of net gambling revenue.  
2 Failure to abide by the terms of the contract could result in financial penalties to the  
3 operator.

4 The license fee for a casino under the amendment is \$10,000,000, which is deposited  
5 into the General Fund. The amendment sets the distribution of net slot machine revenue  
6 at 35% and the distribution of net table game revenue at 16% for the resort-style casino.  
7 Upon operation of slot machines at the resort-style casino, the board will hold  
8 distributions required of existing casinos until the Legislature establishes a single  
9 distribution structure that would apply to all casinos in the State that establishes a  
10 distribution of 35% of net slot machine revenue and 16% of net table game revenue.

11 Finally, the amendment makes enactment of this bill contingent upon the approval of  
12 the voters of the State at a statewide referendum election.

13 **FISCAL NOTE REQUIRED**

14 **(See attached)**