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## Senate of Pennsylvania

### COMMITTEES

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June 10, 2008

Senator Jane Earll  
Task Force on Gaming  
Room 177 Main Capitol Building  
Harrisburg, PA 17120

Rep. Harold James  
Task Force on Gaming  
Room 317 Irvis Office Building  
Harrisburg, PA 17120

### BIE PROPOSAL

This legislation would create a new independent law enforcement agency known as the Pennsylvania Gaming Enforcement Agency ("GEA"). Similar to Nevada, this legislation would create a two-tier regulatory system, with the GEA conducting both background investigations of applicants for licensure and investigations for criminal violations of the Gaming Act ("Act") and the Pennsylvania Gaming Control Board ("PGCB") responsible for all licensing and other decisions. Unlike other proposals that would move the PGCB Bureau of Investigation and Enforcement ("BIE") to the Attorney General or the Pennsylvania State Police ("PSP"), this proposal would create a truly independent and politically insulated agency to implement and enforce the provisions of the Gaming Act. The GEA would work in tandem with both the Attorney General and PSP in carrying out its duties under the Act.

The GEA would be completely independent of the PGCB in matters which it has jurisdiction. As proposed, current investigators of BIE, along with employees of the Office of Enforcement Counsel ("OEC"), would be transferred to the GEA. PGCB's Casino Enforcement Agents will not be transferred to the GEA. Rather, those agents will become part of the Bureau of Regulatory Enforcement, an independent bureau created within PGCB charged with enforcement of the non-criminal/regulatory provisions of the Act. The Bureau of Regulatory Enforcement would refer all non-criminal violations of the Act, and the regulations promulgated thereto, to the OEC for prosecution before the PGCB.

The GEA would be headed by an Executive Director appointed by the Attorney General with confirmation by 2/3 of the members elected to the Senate. The Executive Director must have prior law enforcement or gaming experience and will be subject to the restrictions, prohibitions, etc. similar to those applicable to members of the PGCB. Although the GEA is

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independent of the Office of Attorney General, the Attorney General may remove the Executive Director for good cause.

The GEA would be charged with conducting both background investigations of applicants for licensure and investigations for criminal violations of the Act. Designated as a law enforcement agency, the legislation would clearly reflect the legislature's intent to authorize the GEA to receive protected criminal history information under state and federal law. Similar to SB 1331, the GEA would be required to appear before the PGCB at public input hearings and make recommendations regarding suitability and licensure.

Similar to Indiana, GEA agents are law enforcement officers vested with the power to arrest for criminal violations of the Gaming Act or the laws of the Commonwealth at a licensed facility. Agents are required to have prior law enforcement experience or complete a training course designed by the Executive Director in consultation with the Attorney General, PGCB, and the Municipal Police Officers Education and Training Commission. It is not the intent of the legislation to reduce the role of the Pennsylvania State Police at licensed facilities.

Although transferred to the GEA, the duties of the Office of Enforcement Counsel would not change. However, to ensure independence, the Executive Director of the GEA would select the Chief Enforcement Counsel, who must have prior experience as a state or federal prosecutor or in the field of gaming law.



Jay Costa  
43<sup>rd</sup> Senatorial District

cc: Mark Mekilo

## **GAMING ENFORCEMENT AGENCY**

- Independent Agency
- Politically Insulated
- Designated as a Law Enforcement Agency for Purposes of Receiving Protected Criminal History Information Under State and Federal Law

### **Executive Director**

- Appointed by Attorney General
- Confirmed by 2/3 of Senate
- Term
  - Initial Appointee ~ 2 Year Term Eligible for Re-Appointment for One 4-Year Term. (6 Years Total)
  - Subsequent Appointees Eligible for Two 4-Year Terms (8 Years Total)
- May be Removed by Attorney General for Good Cause
- Minimum 20 Years Experience in Law Enforcement or Gaming Regulation

### **Civil Division**

- Trained Law Enforcement Agents
- Conduct Background Investigations of Applicants for Licensure
- Appear before the Board and Make Recommendations Re: Suitability for Licensure
- Refer Possible Criminal Violations of the Act or the Laws of the Commonwealth arising from a Background Investigation to the Criminal Division or the Pennsylvania State Police for Investigation

### **Criminal Division**

- Trained Law Enforcement Agents
  - Training Program to be established for New Investigators if not previously Certified as a Law Enforcement Officer
- Agents Have Power to Arrest for Criminal Violations of the Act and the Criminal Laws of the Commonwealth at a Licensed Facility
- Coordinates Criminal Prosecution of Non-Gaming Laws with PSP and AG

### **Office of Enforcement Counsel**

- Represents the Agency and the Bureau of Regulatory Enforcement in Proceedings Before the Board for Noncriminal Violations of the Act
- Appear before the Board and Make Recommendations Re: Suitability for Licensure
- Headed by the Chief Enforcement Counsel
  - Appointed by Executive Director of Agency
  - Attorney Admitted to Practice in Pennsylvania
  - Minimum 10 Years Experience as a State or Federal Prosecutor or in Gaming Law

# PRELIMINARY DRAFT

## AN ACT

5

1 Amending Title 4 (Amusements) of the Pennsylvania Consolidated  
2 Statutes, further providing for definitions, for  
3 administration and for gaming enforcement; providing for  
4 gaming investigations; and making editorial changes.

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12  
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5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

14  
15

7 Section 1. The definition of "bureau" in section 1103 of  
8 Title 4 of the Pennsylvania Consolidated Statutes is amended and  
9 the section is amended by adding definitions to read:

16  
18  
19

10 § 1103. Definitions.

21

11 The following words and phrases when used in this part shall  
12 have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

23  
24  
25

14 \* \* \*

27

15 "Agency." The Gaming Enforcement Agency established in  
16 section 1517.1 (relating to investigations).

28  
29

17 \* \* \*

31

18 "Bureau." The Bureau of [Investigations and] Regulatory

32

1	Enforcement <u>of</u> the Pennsylvania Gaming Control Board.	33
2	<u>  * * *</u>	35
3	<u>"Commissioner." The Commissioner of Pennsylvania State</u>	37
4	<u>Police.</u>	
5	<u>  * * *</u>	39
6	<u>Section 2. Section 1202(a)(6) and (b)(7), (9), (10), (23)</u>	41
7	<u>and (25) of Title 4 are amended and subsection (b) is amended by</u>	42
8	<u>adding a paragraph to read:</u>	43
9	<u>§ 1202. General and specific powers.</u>	45
10	<u>(a) General powers.--</u>	47
11	<u>  * * *</u>	50
12	<u>[(6) A request for proposal to conduct investigations of</u>	52
13	<u>employees and applicants under this part shall include a</u>	
14	<u>requirement that an offeror provide the number of employees</u>	53
15	<u>of the offeror who will be engaged in the conduct of</u>	54
16	<u>investigations and who are residents of this Commonwealth and</u>	56
17	<u>annuitants of a Federal, State or local law enforcement</u>	
18	<u>agency. Preference shall be given to an offeror with a</u>	58
19	<u>substantial number of employees who will be engaged in the</u>	59
20	<u>conduct of investigations and who are residents of this</u>	60
21	<u>Commonwealth and annuitants of a Federal, State or local law</u>	61
22	<u>enforcement agency.]</u>	62
23	<u>(b) Specific powers.--The board shall have the specific</u>	63
24	<u>power and duty:</u>	64
25	<u>  * * *</u>	66
26	<u>(7) To administer oaths, examine witnesses and issue</u>	67
27	<u>subpoenas compelling the attendance of witnesses or the</u>	68
28	<u>production of documents and records or other evidence[.] and</u>	70
29	<u>to order any person to answer a question or questions or</u>	71
30	<u>produce evidence of any kind and confer immunity as provided</u>	