

regarding the flexibility offered to local districts and schools. No revision is necessary.

19. COMMENT:

Commenters expressed support for the proposed amendment but stated that the addition of a requirement that parents and persons in parental relations be expressly authorized to opt their child out from participating in drills is something the Department should consider by creating a work-group to review the national legislative landscape on lockdown drill reform, including “opt-out” policies in other states, recommendations by the National Association of School Psychologists (NASP), the National Association of School Resource Officers, and Safe and Sound Schools (a non-profit school safety advocacy and resource center founded by parents who lost children in Sandy Hook Elementary School shooting).

DEPARTMENT RESPONSE:

Education Law § 807 requires that “[i]t shall be the duty of the principal or other person in charge of every public or private school or educational institution within the state... to instruct and train the pupils by means of drills, so that they may in a sudden emergency be able to respond appropriately in the shortest possible time and without confusion or panic.” As such, the Commissioner lacks the authority to implement the requested change.

20. COMMENT: One commenter questioned differences in the proposed amendments and a communication from the Department to school and district administrators regarding implementation of the new requirements (<https://www.nysed.gov/memo/student-support-services/recent-amendments-commissioners-regulations-ss15517>) regarding notification to parents and persons in parental relation a minimum of one week prior to a drill. The commenter questioned why this notification was omitted from the proposed rule.

DEPARTMENT RESPONSE:

The Department has made a non-substantial revision to the proposed rule to clarify that notice to parents and those in parental relations regarding drills must be made within one week prior to each drill.

21. COMMENT:

Several commenters requested additional guidance on improving communication with parents and persons in parental relations.

DEPARTMENT RESPONSE:

The Department and the New York State Center for School Safety continue to develop guidance and resources for schools and districts, including parental communication resources. No revisions are necessary.

22. COMMENT:

One commenter referenced a requirement in New York City Chancellor’s Regulation A-414 that School Safety Plan Committees conduct an annual meeting for parents and required committee members to include representatives beyond the minimum required by Education Law § 2801-a and Commissioner’s Regulation § 155.17. The commenter also recommended alignment with the Commissioner’s Regulation and the Chancellor’s Regulation.

DEPARTMENT RESPONSE:

Education Law § 2801-a and Commissioner’s Regulations set the minimum requirement for school district school safety requirements. School districts, such as New York City Public Schools, have the authority to establish additional requirements beyond the minimum established. No revision is necessary.

New York Gaming Facility Location Board

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Minimum Capital Investment for Additional Gaming Facility

I.D. No. GFB-31-24-00016-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 602.1 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 1306(5), (9) and 1321-e(1)

Subject: Minimum capital investment for additional gaming facility.

Purpose: To establish a minimum capital investment amount for additional gaming facilities.

Text of proposed rule: § 602.1. Gaming facility minimum capital investment.

(a) *Title 2 licensees. For a gaming facility licensed pursuant to Racing, Pari-Mutuel Wagering and Breeding Law article 13, title 2, the [The] minimum capital investment for a gaming facility by zone and region, as such zone and regions are defined in Racing, Pari-Mutuel Wagering and Breeding Law section 1310, shall be:*

[(a)] (1) In Zone Two, Region One (Counties of Columbia, Delaware, Dutchess, Greene, Orange, Sullivan and Ulster)[, as such zone and region are defined in section 1310 of the Racing, Pari-Mutuel Wagering and Breeding Law]:

[(1)] (i) \$350,000,000 for a gaming facility in Dutchess or Orange Counties;

[(2)] (ii) \$130,000,000 for a gaming facility in Columbia, Delaware, Greene, Sullivan or Ulster Counties, if no license is awarded for a gaming facility located in Dutchess or Orange Counties; and

[(3)] (iii) \$100,000,000 for a gaming facility in Columbia, Delaware, Greene, Sullivan or Ulster Counties, if a license is awarded for a gaming facility located in Dutchess or Orange Counties.

[(b)] (2) \$135,000,000 in Zone Two, Region Two (Counties of Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie and Washington)[, as such zone and region are defined in section 1310 of the Racing, Pari-Mutuel Wagering and Breeding Law].

[(c)] (3) In Zone Two, Region Five (Counties of Broome, Chemung (east of State Route 14), Schuyler (east of State Route 14), Seneca, Tioga, Tompkins, and Wayne (east of State Route 14))[, as such zone and region are defined in section 1310 of the Racing, Pari-Mutuel Wagering and Breeding Law, the following fees will apply to counties as designated below]:

[(1)] (i) \$85,000,000 for a gaming facility in Broome, Chemung, Schuyler, Tioga or Tompkins Counties;

[(2)] (ii) \$135,000,000 for a gaming facility in Wayne or Seneca Counties; and

[(3)] (iii) \$70,000,000 for a gaming facility in Broome, Chemung, Schuyler, Tioga or Tompkins Counties, if a license is awarded for a gaming facility located in Wayne or Seneca Counties.

(b) *Title 2-A licensees. For a gaming facility licensed pursuant to Racing, Pari-Mutuel Wagering and Breeding Law article 13, title 2-A, the minimum capital investment for a gaming facility shall be \$500,000,000.*

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: sitingrules@nysemail.onmicrosoft.com

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. **STATUTORY AUTHORITY:** Racing, Pari-Mutuel Wagering and Breeding Law (“Racing Law”) section 1306(1) and section 1321-b prescribe that the Gaming Facility Location Board, which is established by the Commission, shall issue a request for applications (“RFA”) for applicants seeking one of the additional gaming facility licenses to develop and operate a gaming facility in New York State. On January 3, 2023, the Gaming Facility Location Board issued the RFA.

Racing Law sections 1306(5) and 1321-e(1) authorize the Board to determine the minimum capital investment for each unawarded gaming facility license.

Racing Law 1306(9) authorizes the Board to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

2. **LEGISLATIVE OBJECTIVES:** This rule making carries out the legislative objectives of the above referenced statutes by implementing the requirements of Racing Law section 1306(5) and section 1321-e(1).

3. **NEEDS AND BENEFITS:** This rule making is necessary to enable the Gaming Facility Location Board to carry out its statutory duty to establish the minimum capital investment for each unawarded gaming facility license to be issued by the Commission. Some stylistic amendments are also made to the existing rule to mirror Gaming Commission style conventions.

4. **COSTS:**

(a) Costs to the regulated parties for the implementation of and continuing compliance with the rules: An applicant chosen for gaming facility licensure will be required, by statute, to make at least the minimum capital investment in its gaming facility.

(b) Costs to the regulating agency, the State, and local government: The proposed rules will impose no additional costs on the Board, the State or local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Gaming Commission’s experience regulating racing and gaming activities within the State.

5. **PAPERWORK:** The proposed rules are not expected to impose any

significant paperwork requirements for gaming facility applicants and licensees.

6. **LOCAL GOVERNMENT MANDATES:** The proposed rules do not impose any mandatory program, service, duty, or responsibility upon local government because the licensing of gaming facilities is strictly a matter of State law.

7. **DUPLICATION:** The proposed rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** The Board is required to create these rules under Racing Law sections 1306(5) and 1321-e(1). The Board considered retaining existing minimum capital investment amounts for Title 2-A applicants in Zone Two (upstate counties) and setting minimum capital investment amounts by region or by county, but determined that setting a uniform minimum amount and allowing applicants to propose higher capital investment amounts as a part of their applications would best serve the competitive structure of the gaming facility application process.

9. **FEDERAL STANDARDS:** There are no federal standards applicable to the licensing of gaming facilities in New York because such licensing is solely in accordance with New York State law.

10. **COMPLIANCE SCHEDULE:** The Board anticipates that affected parties will be able to achieve compliance with the proposed rules upon the adoption of the rules.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

The proposed changes do not require a Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement. There will be no adverse impact on small businesses, local governments, rural areas or jobs.

The proposed rules prescribe the minimum capital investment for an additional gaming facility license issued by the New York State Gaming Commission. It is not expected that any small business or local government will apply for a gaming facility license.

The proposal imposes no adverse economic impact or reporting, recordkeeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. The rules apply uniformly throughout the State to any applicant seeking a license to develop and operate an additional gaming facility in the State.

The proposal will not adversely impact small businesses, local governments, jobs, or rural areas. It does not require a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, or Job Impact Statement.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

License Fee for Additional Gaming Facility

I.D. No. GFB-31-24-00017-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 601.1 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 1306(4), (9) and 1321-e(3)

Subject: License fee for additional gaming facility.

Purpose: To establish a license fee for additional gaming facilities.

Text of proposed rule: § 601.1. Gaming facility license fees.

(a) The license fee for a gaming facility license issued by the Gaming Commission pursuant to [subdivision 4 of section 1315 of the] Racing, Pari-Mutuel Wagering and Breeding Law *article 13, title 2* shall be as follows, unless a gaming facility licensee has agreed to pay an amount in excess of the fees listed below:

(1) in Zone Two, Region One (Counties of Columbia, Delaware, Dutchess, Greene, Orange, Sullivan and Ulster), as such zone and region are defined in [section 1310 of the] Racing, Pari-Mutuel Wagering and Breeding Law *section 1310*, the following fees will apply to counties as designated below:

(i) \$70,000,000 for a gaming facility in Dutchess and Orange Counties;

(ii) \$50,000,000 for a gaming facility in Columbia, Delaware, Greene, Sullivan and Ulster Counties, if no license is awarded for a gaming facility located in Dutchess or Orange Counties; and

(iii) \$35,000,000 for a gaming facility in Columbia, Delaware, Greene, Sullivan and Ulster Counties, if a license is awarded for a gaming facility located in Dutchess or Orange Counties.

(2) \$50,000,000 in Zone Two, Region Two (Counties of Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie and Washington), as such zone and region are defined in [section 1310 of the] Racing, Pari-Mutuel Wagering and Breeding Law *section 1310*;

(3) in Zone Two, Region Five (Counties of Broome, Chemung (east of State Route 14), Schuyler (east of State Route 14), Seneca, Tioga, Tompkins, and Wayne (east of State Route 14)), as such zone and region are defined in [section 1310 of the] Racing, Pari-Mutuel Wagering and Breeding Law *section 1310*, the following fees will apply to counties as designated below:

(i) \$35,000,000 for a gaming facility in Broome, Chemung, Schuyler, Tioga or Tompkins Counties;

(ii) \$50,000,000 for a gaming facility in Wayne or Seneca Counties; and

(iii) \$20,000,000 for a gaming facility in Broome, Chemung, Schuyler, Tioga and Tompkins Counties, if a license is awarded for a gaming facility located in Wayne or Seneca Counties.

(b) *The license fee for a gaming facility license issued by the Gaming Commission pursuant to Racing, Pari-Mutuel Wagering and Breeding Law article 13, title 2-A shall be \$500,000,000, unless a gaming facility licensee has agreed to pay an amount in excess of that.*

[(b)] (c) A gaming facility licensee shall pay the required license fee by electronic fund transfer according to directions issued by the Gaming Commission.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: sitingrules@nysemail.onmicrosoft.com

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. **STATUTORY AUTHORITY:** Racing, Pari-Mutuel Wagering and Breeding Law (“Racing Law”) section 1306(1) and section 1321-b prescribe that the Gaming Facility Location Board, which is established by the Commission, shall issue a request for applications (“RFA”) for applicants seeking one of the additional gaming facility licenses to develop and operate a gaming facility in New York State. On January 3, 2023, the Gaming Facility Location Board issued the RFA.

Racing Law sections 1306(4) and 1321-e(3) authorize the Board to determine a gaming facility license fee to be paid by an applicant.

Racing Law 1306(9) authorizes the Board to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

2. **LEGISLATIVE OBJECTIVES:** This rule making carries out the legislative objectives of the above referenced statutes by implementing the requirements of Racing Law section 1306(4) and section 1321-e(3).

3. **NEEDS AND BENEFITS:** This rule making is necessary to enable the Gaming Facility Location Board to carry out its statutory duty to prescribe the license fee for a gaming facility license issued by the Commission. Some stylistic amendments are also made to the existing rule to mirror Gaming Commission style conventions.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with the rules: An applicant chosen for gaming facility licensure will be required, by statute, to pay the license fee that is established.

(b) Costs to the regulating agency, the State, and local government: The proposed rules will impose no additional costs on the Board, the State or local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Gaming Commission’s experience regulating racing and gaming activities within the State.

5. **PAPERWORK:** The proposed rules are not expected to impose any significant paperwork requirements for gaming facility applicants and licensees.

6. **LOCAL GOVERNMENT MANDATES:** The proposed rules do not impose any mandatory program, service, duty, or responsibility upon local government because the licensing of gaming facilities is strictly a matter of State law.

7. **DUPLICATION:** The proposed rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** The Board is required to create these rules under Racing Law sections 1306(4) and 1321-e(3). Racing Law section 1321-e(3) requires a minimum license fee of \$500,000,000. The Board considered setting a higher license fee, but determined that setting the fee at the statutory minimum and allowing applicants to propose paying a higher fee as a part of their applications would best serve the competitive structure of the gaming facility application process. The Board also considered setting variable license fees according to the term of the license or the level of capital investment proposed, or setting different license fees according to the location of the gaming facility, but determined that a flat fee for all applicants would best serve the competitive structure of the gaming facility application process.