SENATE DOCKET, NO. 1140 FILED ON: 1/20/2011

# SENATE . . . . . No. 168

## The Commonwealth of Massachusetts

PRESENTED BY:

***Marc R. Pacheco***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act establishing and regulating resort-style entertainment in the Commonwealth.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Marc R. Pacheco* | ☐ *[District]* ☐ |
| *Patricia A. Haddad* | *5th Bristol* |

SENATE DOCKET, NO. 1140 FILED ON: 1/20/2011

# SENATE . . . . . No. 168

By Mr. Pacheco, petition (accompanied by bill, Senate, No. 168) of Marc R. Pacheco and Patricia A. Haddad for legislation to establish and regulate resort-style entertainment in the Commonwealth [Joint Committee on Economic Development and Emerging Technologies].

## The Commonwealth of Massachusetts

An Act establishing and regulating resort-style entertainment in the Commonwealth.

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to provide for the immediate economic development and revenue needs of the commonwealth, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. The general court finds and declares that:

(a) promoting the economic viability of the commonwealth is a fundamental purpose of state government;

(b) growing the commonwealth's economy is the best way to make the investments in those areas that will strengthen the commonwealth;

(c) the creation of resort-style entertainment complexes is an important part of an overall strategy to ensure the state's economic growth;

(d) authorizing 3 resort-style entertainment complexes will result in thousands of construction jobs and billions of dollars of construction-related spending in the commonwealth;

(e) once constructed, the 3 resort-style entertainment complexes will create thousands of new jobs for residents of the commonwealth and offer a wide array of employment opportunities for individuals with diverse educational backgrounds and skills, while enhancing the commonwealth's workforce development system by creating career advancement opportunities for casino employees;

15 (f) ensuring that the resort casinos are located in distinct markets of the state expands
16 economic development and job creation broadly throughout the whole commonwealth and
17 recognizes that the needs of regional economies must be addressed;

18 (g) revenue generated from resort casinos can be used to fund critical needs in the
19 commonwealth, and our cities and towns;

20 (h) such investment in infrastructure is an economic necessity and will facilitate
21 economic development and job creation;

22 (i) offsetting property tax burden, hitting middle and lower income homeowners the
23 hardest, and providing local services;

24 (j) retooling and modernizing the racing industry and workforce in the commonwealth is
25 critical to the success of the resort-style entertainment industry and to the state's economic
26 growth overall;

27 (k) addressing the social costs of gaming is an important and necessary part of any
28 comprehensive gaming plan and therefore this act provides for a high level of funding for these
29 costs and an evaluation mechanism to ensure we understand fully the impacts of gaming in the
30 commonwealth;

31 (l) a rigorous gaming regulatory and enforcement scheme is needed to ensure fairness and
32 integrity in the gaming industry, and therefore this act contains a detailed strategy to ensure
33 proper oversight and evaluation of resort casinos in our commonwealth;

34 (m) the success of gaming in this commonwealth requires public confidence and trust that
35 licensed gaming will be conducted honestly and competitively, that the resort-style entertainment
36 complexes licensed in the commonwealth will not unduly impact the quality of life enjoyed by
37 residents of the surrounding communities, and that gaming will be free from criminal and
38 corruptive elements;

39 (n) public confidence and trust can only be maintained by strict regulation of all persons,
40 locations, practices, associations and activities related to the operation of the resort casinos
41 licensed in the commonwealth;

42 (o) the resort-style entertainment complexes licensed in the commonwealth must
43 therefore be controlled to protect the public health, safety, and well being of the inhabitants of
44 the commonwealth, to foster the stability and success of gaming and to preserve the competitive
45 economy of the commonwealth;

46 (p) the Massachusetts gaming control authority is therefore created as the custodian of the
47 public trust relative to the gaming industry and is explicitly granted broad powers within this act

48 so it may have the full authority to oversee the gaming industry and ensure that resort casino
49 operations are transparent; and

50 (q) to delay or deny the commonwealth the opportunity to increase jobs, attain new
51 revenue, and address critical needs would be contrary to the best interests of our residents.

52 SECTION 2. Section 39 of chapter 3 of the General Laws, as appearing in the 2006
53 Official Edition, is hereby amended by inserting in line 63 after the words "Loan Authority" the
54 following words: Massachusetts Gaming Control Authority.

55 SECTION 3. Section 7 of chapter 4 of the General Laws, as so appearing, is hereby
56 amended by deleting lines 63 through 65 and inserting in place thereof the following paragraphs:

57 Tenth, "Gaming," any banking or percentage game played with cards, dice, tiles,
58 dominoes, or any electronic, electrical, or mechanical device or machine for money, property,
59 checks, credit or any representative of value, but excluding:

60 (a) the game of bingo conducted pursuant to chapter 271;

61 (b) any charitable gaming, so called, conducted pursuant to chapter 271;

62 (c) pari-mutuel wagering on horse and dog races, whether live or simulcast, authorized
63 under chapter 128A and chapter 128C; and

64 (d) any lottery game conducted by the state lottery commission, in accordance with
65 section 24 of chapter 10.

66 "Illegal gaming" or "unlawful gaming" shall include every act punishable under any law
67 relative to lotteries and the buying and selling of pools or registering of bets, except those acts
68 permitted under section 24 of chapter 10, chapter 12B, chapter 128A, chapter 128C, and chapter
69 271.

70 SECTION 4. Section 22B1/2 of chapter 7, is hereby amended by inserting in line 23 after
71 the words "Massachusetts Educational Loan Authority" the following words: Massachusetts
72 Gaming Control Authority.

73 SECTION 5. Section 22G of chapter 7, is hereby amended by inserting in line 54 after
74 the words "Massachusetts Educational Loan Authority" the following words: Massachusetts
75 Gaming Control Authority.

76 SECTION 6. The General Laws are hereby amended by striking out chapter 12B and
77 inserting in place thereof the following chapter:

78 CHAPTER 12B. THE MASSACHUSETTS GAMING CONTROL AUTHORITY

79 Section 1. Definitions

80 As used in this chapter, the following words shall have the following meanings unless the
81 context clearly requires otherwise:

82 "Affiliate", any person that a licensee or applicant directly or indirectly controls or in
83 which an applicant or licensee possesses an interest. For the purposes of this definition,
84 "controls" means either (i) directly or indirectly holding more than 10 percent of voting
85 membership rights or voting stock or partnership interests, or (ii) that a majority of the directors,
86 general partners, trustees, or members of an entity's governing body are representatives of, or are
87 directly or indirectly controlled by, the licensee or applicant. For the purposes of this definition,
88 "possesses an interest in" means either (i) directly or indirectly holding more than 5 percent of
89 voting membership rights or voting stock, or (ii) that at least 25 percent of the directors, general
90 partners, trustees, or members of an entity's governing body are representatives of, or are directly
91 or indirectly controlled by, the licensee or applicant.

92 "Applicant", a person who has applied for a casino license, work permit, or approval of
93 any act or transaction pursuant to this chapter.

94 "Authority", the Massachusetts gaming control authority, established pursuant to this
95 chapter.

96 "Board", the board of the Massachusetts gaming control authority.

97 "Casino license", a license issued by the authority under this chapter that authorizes the
98 person named therein to operate a resort casino in the commonwealth.

99 "Casino licensee", any licensee holding a valid casino license issued under this chapter.

100 "Casino work permit", any permit issued by the authority authorizing the holder to be
101 employed as an employee in a licensed casino.

102 "Controlled game" or "controlled gaming", any gaming conducted in a gaming
103 establishment and located in a licensed casino in the commonwealth pursuant to this chapter.

104 "Division", the division of gaming investigation and enforcement, within the department
105 of the attorney general, as established pursuant to this chapter.

106 "Electronic gaming device", any game of chance, mechanical, electronic or otherwise
107 featuring coin drop and payout as well as printed tabulations or credits to a paper or electronic
108 account, whereby the software or hardware of the device predetermines the presence or lack of a
109 winning combination and payout, including microprocessor-controlled electronic devices that
110 allow a player to play games of chance, which may be affected by an element of skill, activated
111 by the insertion of a coin or currency or by the use of a credit and awards game credits, cash,
112 tokens, replays or a written statement of the player's accumulated credits, which written

113 statements are redeemable for cash; and including slot machines, video lottery terminals and
114 video facsimile machines of any type.

115 "Employee", any natural person employed to perform services for compensation as an
116 employee by a casino, including but not limited to casino employees, casino key employees,
117 casino security employees, casino service employees, or any other person who works for any
118 ancillary service operating on the site of a casino, including but not limited to hotels, restaurants,
119 gaming establishments, and entertainment facilities.

120 "Executive Director", the executive director of the Massachusetts gaming control
121 authority, as established pursuant to this chapter.

122 "Gaming", as defined in section 7 of chapter 4.

123 "Gaming establishment", any building, room, place or other indoor or outdoor premises
124 where any gaming occurs, including all public and non-public areas of any such establishment.

125 "Gaming equipment", any equipment, device, object or contrivance, or machine, whether
126 mechanical, electromechanical, or electronic, which is specifically designed or manufactured for
127 use in the operation of gaming.

128 "Gaming services", goods or services provided to any gaming establishment directly in
129 conjunction with the operation of gaming, including security services, junket services, gaming
130 schools or training activities, promotional services, printing or manufacture of betting tickets,
131 gaming technology services, and manufacture, distribution, maintenance, testing or repair of
132 electronic gaming devices, or goods or services provided by any person pursuant to which the
133 person receives payments based on earnings, profits or net receipts from gaming.

134 "Gross gaming revenue", the total, prior to the deduction of any operating, capital or
135 other expenses whatsoever, less only the total of all sums paid out as winnings, of all gaming
136 establishment revenue generated by the gaming establishment of any casino licensed under this
137 chapter derived from the conduct of any game conducted at a licensed casino.

138 "Holding company", any corporation, firm, partnership, trust, or other entity that, directly
139 or indirectly, owns, has the power or right to control, or holds the power to vote on, all or any
140 part of the partnership interests or outstanding voting securities of a corporation or any other
141 business entity that holds or applies for a gaming license. In addition, a holding company
142 indirectly owns, has, or holds such power or right mentioned in the preceding sentence if it does
143 so through any interest in a subsidiary or affiliate or successive subsidiaries or affiliates, however
144 many of these subsidiaries or affiliates may intervene between the holding company and the
145 corporate licensees or applicant.

146 "Intermediary company", any corporation, firm, partnership, trust, or other entity, other
147 than a natural person, that is both of the following:

148 (a) a subsidiary of a holding company, and

149 (b) a holding company with respect to a corporation or limited partnership or
150 other entity that holds or applies for a gaming license.

151 "License", a license issued to operate electronic gaming devices, to persons employed by
152 gaming establishments, to gaming suppliers, to parties in interest, and to gaming schools.

153 "Licensed casino", any resort casino licensed to conduct controlled gaming pursuant to
154 this chapter.

155 "Licensed casino operator", any operating entity that conducts controlled gaming within a
156 gaming establishment pursuant to a license issued under this chapter.

157 "Licensee", any person or party holding a valid license under this chapter.

158 "Licensing fee", the fee required to be paid to the commonwealth by a licensed casino
159 operator to operate a resort casino.

160 "Local host community", 1 or more towns or cities in which a resort casino is located.

161 "Market", any one of the following three market areas: Region 1—Suffolk, Middlesex
162 and Essex counties; Region 2—Norfolk, Bristol and Plymouth counties; Region 3—Worcester,
163 Hampden, Franklin and Berkshire counties.

164 "Operating licensing payment", the payment, based on a percentage of gross gaming
165 revenue, that a licensed casino operator makes to the commonwealth.

166 "Party in interest", any corporation, firm, partnership, trust, or other entity or person with
167 any direct or indirect pecuniary interest in a licensed gaming establishment, or a person who
168 owns any interest in the premises of a licensed gaming establishment, or land upon which such
169 premises is licensed, whether he leases the property directly or through an affiliate.

170 "Person" or "party", a natural person, corporation, partnership, limited partnership,
171 trustee, holding company, joint venture, association, or any business entity.

172 "Resort casino", a casino which shall include a gaming establishment and other non-
173 gaming amenities, including but not limited to: hotels, entertainment venues, retail stores,
174 recreational facilities, and restaurants all located at 1 site.

175 "Substantial party in interest", any person holding a greater than 1 percent direct or
176 indirect pecuniary interest, whether as owner, mortgagee or otherwise, in an operating entity,
177 premises, or any other licensee or applicant; but, excluding any shareholder holding less than a 5
178 percent interest in a public company that is a substantial party in interest.

179 Section 2. Establishment of the Massachusetts Gaming Control Authority

180 (a) There is hereby created a body politic and corporate to be known as the Massachusetts
181 gaming control authority. The authority is hereby constituted a public instrumentality and the
182 exercise by the authority of the powers conferred by this chapter shall be deemed to be the
183 performance of an essential governmental function. The purpose of the authority is to provide for
184 the establishment of resort casinos, and to license, regulate, and oversee licensed casinos and
185 controlled gaming at licensed casinos in the commonwealth.

186 (b) The authority shall be governed and have its corporate powers exercised by a board of
187 directors consisting of the auditor or his designee, and 6 members to be appointed by the
188 governor, 1 of whom shall have experience in legal issues with respect to gaming establishments;
189 1 of whom shall have experience in finance and financial markets; 1 of whom shall have
190 experience with the regulatory aspects needed for gaming establishments; 1 of whom shall have
191 experience in accounting; and 1 of whom shall have experience in public health.

192 With the exception of the auditor, no board member shall hold or be a candidate for
193 elected political office. Each board member shall be a citizen of the United States and a resident
194 of the commonwealth. No person who has been convicted of a felony or of a misdemeanor shall
195 be eligible to serve on the board.

196 Three of the members appointed by the governor shall serve a term coterminous with that
197 of the governor. The other 3 members appointed by the governor shall serve a term of 5 years.
198 Any person appointed to fill a vacancy in the office of a member of the board shall be appointed
199 in a like manner and shall serve for only the unexpired term of such member. Any member shall
200 be eligible for reappointment but no member shall serve more than 2 terms of 5 years each. Any
201 member may be removed from his appointment by the governor for cause. The governor shall
202 from time to time designate a member or members of the board as its chairperson or co-
203 chairperson as applicable. Five of the members shall constitute a quorum and the affirmative
204 vote of a majority of members present at a duly called meeting where a quorum is present shall
205 be necessary for any action to be taken by the board. Any action required or permitted to be
206 taken at a meeting of the board may be taken without a meeting if all of the members consent in
207 writing to such action and such written consents are filed with the records of the minutes of the
208 meetings of the board. Such consents shall be treated for all purposes as a vote at a meeting.

209 The members of the board shall serve without compensation, but each member shall be
210 entitled to reimbursement for his actual and necessary expenses incurred in the performance of
211 his official duties.

212 The board annually may elect 1 of its members as vice-chairperson, shall elect a secretary
213 and a treasurer, and may elect or appoint other officers as it may deem necessary, none of whom,
214 other than the vice-chairperson, are required to be members of the board. The secretary shall
215 keep a record of the proceedings of the board and shall be custodian of all books, documents, and
216 papers filed by the board and of its minute book and seal. The secretary shall cause copies to be

217 made of all minutes and other records and documents of the authority and shall certify that such
218 copies are true copies, and all persons dealing with the authority may rely upon such
219 certification. The treasurer shall be the chief financial and accounting officer of the authority and
220 shall be in charge of its funds, books of account and accounting records. The officers of the
221 board shall be subject to the same requirements as the members of the board under this act.
222 Meetings of the authority board shall be subject to sections 11A and 11A1/2 of chapter 30A,
223 provided, however, that any discussion or consideration of law enforcement or investigatory
224 information, trade secrets or commercial or financial information may be held by the board in
225 executive session closed to the public notwithstanding the provisions of section 11A1/2 of
226 chapter 30A, but the purpose of any such executive session shall be set forth in the official
227 minutes of the authority board and no business which is not directly related to such purpose shall
228 be transacted nor shall any vote be taken during such executive session. A public record of every
229 vote shall be maintained at the authority.

230 (c) The board shall have the power to appoint and employ an executive director, and to
231 fix the director's compensation and conditions of employment. The executive director shall be
232 the chief executive, administrative and operational officer of the authority and shall direct and
233 supervise administrative affairs and the general management of the authority. The executive
234 director may, subject to the general supervision of the board, employ other employees,
235 consultants, agents, including legal counsel, and advisors, and shall attend meetings of the board.

236 (d) The authority shall be advised by an advisory committee consisting of 12 members,
237 including: the secretary of health and human services, the secretary of administration and
238 finance, the secretary of housing and economic development, the secretary of labor and
239 workforce development, the secretary of public safety and security, or their designees; 3
240 members of the committee who shall be appointed by the governor, 1 of whom shall be a
241 representative of organized labor, 1 of whom shall be an expert on gaming addiction, and 1 of
242 whom shall be a police chief; 2 of the members of the committee who shall be appointed by the
243 senate president; and 2 members who shall be appointed by the speaker of the house of
244 representatives. Each member of the advisory committee shall serve for a term of 3 years;
245 provided, however, that of the initial appointed members, 1 of the senate president's and
246 speaker's appointments, and 3 of the governor's appointments shall serve a term of 2 years. Any
247 person appointed to fill a vacancy in the office of a member of the advisory committee shall be
248 appointed in a like manner and shall serve for only the unexpired term of such member. Any
249 member shall be eligible for reappointment but no member shall serve more than 2 three-year
250 terms. The governor shall from time to time designate a member or members of the advisory
251 committee as its chairperson or co-chairperson as applicable. The members of the advisory
252 committee shall serve without compensation, but each member shall be entitled to
253 reimbursement for his actual and necessary expenses incurred in the performance of his official
254 duties.

255 (e) Board members, officers and members of the advisory committee who are not
256 compensated employees of the authority shall not be liable to the commonwealth, to the
257 authority, or to any other person as a result of their activities, whether ministerial or
258 discretionary, as such board members, officers, or advisory committee members except for
259 willful dishonesty or intentional violations of law. Neither members of the authority nor any
260 person executing bonds or policies of insurance shall be liable personally thereon or be subject to
261 any personal liability or accountability by reason of the issuance thereof. The board of directors
262 may purchase liability insurance for board members, officers and employees and may indemnify
263 these persons against claims of others.

264 (f) Any documentary materials or data whatsoever made or received by any member or
265 employee of the authority and consisting of, or to the extent that such materials or data consist
266 of, law enforcement or investigatory information, trade secrets or commercial or financial
267 information regarding the operation of any business conducted by an applicant for any form of
268 assistance which the authority is empowered to render or regarding the competitive position of
269 such applicant in a particular field of endeavor, shall not be deemed public records of the
270 authority and specifically shall not be subject to the provisions of section 10 of chapter 66.

271 (g) The Massachusetts gaming control authority board shall be the successor to the
272 Massachusetts gambling advisory board established by section 39 of chapter 60 of the acts of
273 1994.

274 Section 3. Powers and Duties of the Authority

275 The authority shall have all powers necessary or convenient to carry out and effectuate its
276 purposes, as defined in section 2(a), including, without limiting the generality of the foregoing,
277 the powers to:

278 (a) adopt an official seal;

279 (b) sue and be sued, to initiate or defend civil actions relating to its properties and affairs,
280 and to be liable in tort in the same manner as a private person; provided however, that the
281 authority is not authorized to become a debtor under the United States Bankruptcy Code;

282 (c) appoint officers and employees;

283 (d) execute all instruments necessary or convenient thereto for accomplishing the
284 purposes of this chapter;

285 (e) enter into agreements or other transactions with any person, including without
286 limitation any public entity or other governmental instrumentality or authority in connection with
287 its powers and duties under this chapter;

288 (f) appear in its own behalf before boards, commissions, departments or other agencies of
289 municipal, state or federal government;

290 (g) obtain insurance;

291 (h) apply for and accept subventions, grants, loans, advances and contributions from any
292 source of money, property, labor or other things of value, to be held, used and applied for its
293 corporate purposes;

294 (i) provide and pay for such advisory services and technical assistance, including but not
295 limited to accountants, financial experts, architects, attorneys, engineers, planners, real estate
296 experts and other consultants as may be necessary in its judgment to carry out the purposes of
297 this chapter and fix their compensation;

298 (j) prepare, publish and distribute, with or without charge, as the authority may
299 determine, such studies, reports and bulletins and other material as the authority deems
300 appropriate;

301 (k) investigate and determine the percentage of population of minority groups in the
302 commonwealth or in areas thereof from which the work force for the casino is or may be drawn;

303 (l) establish and adopt such percentages as guidelines in determining the adequacy of
304 affirmative-action programs submitted for approval pursuant to the provisions of this chapter;

305 (m) determine the types of conduct performed by licensees or applicants for licenses. The
306 authority may approve or disapprove transactions and events as provided in this chapter, approve
307 or disapprove gaming contracts with casino licensees based on their commercial reasonableness
308 or the demonstrated capacity and experience of gaming services providers to perform the
309 requirements such contracts, take actions reasonably designed to ensure that no unsuitable
310 persons are associated with controlled gaming, and take actions reasonably designed to ensure
311 that gaming activities take place only in suitable premises within licensed casinos;

312 (n) monitor the conduct of all licensees and other persons having a material involvement,
313 directly or indirectly, with a licensee for the purpose of ensuring that licenses are not issued to,
314 or held by, and there is no direct or indirect material involvement with a licensee by unqualified,
315 disqualified, or unsuitable persons, or persons whose operations are conducted in unsuitable
316 manner or in unsuitable or prohibited places, as provided herein;

317 (o) annually determine the maximum number of electronic gaming devices and wagering
318 games and the types of wagering games permitted in the commonwealth and the number
319 permitted at each gaming establishment; provided however, that a licensee shall be permitted to
320 petition the authority for approval of additional wagering games and new types of wagering
321 games; and provided further that the number of devices and games permitted for any licensee
322 shall not be reduced during the term of any license issued under this chapter or any renewal

323 thereof or be less than a number necessary to obtain commercially reasonably financing for the
324 development of a resort casino;

325 (p) develop criteria, other than those outlined herein, to assess which bids submitted by
326 applicants for casino licenses under this chapter will provide the highest and best value to the
327 commonwealth;

328 (q) determine which applicants shall be awarded casino licenses and other licenses in
329 accordance with the terms of this chapter provided further, that the authority may award a license
330 for 1200 electronic gaming devices to any racing licensee licensed under Section 3 of Chapter
331 128A as of January 1, 2009, if such licensee is required to cease race track operations as a result
332 of chapter 388 of the Acts of 2008 and does not receive a resort casino under this chapter and
333 does not elect to receive the benefits available under section 22, such award to be made at the
334 discretion of the authority and upon terms and conditions to be established by the authority,
335 which terms and conditions shall include without limitation a licensing fee of not less than
336 $15,000,000, and a requirement to invest not less than $50,000,000 in the development and
337 improvement of the gaming facility and related infrastructure;

338 (r) require any person to apply for a license as provided in this chapter and approve or
339 disapprove any such application or other transactions, events, and processes as provided in this
340 chapter;

341 (s) gather facts and information applicable to its obligation to issue licenses, to suspend
342 or revoke licenses, work permits, or registrations granted to any person for: violation of any
343 provision of this chapter or regulations adopted hereunder; willfully violating an order of the
344 authority directed to such person; the conviction of any criminal offense under this chapter; or
345 the commission of any violation of this chapter or other offense which would disqualify such
346 person from holding a license or registration; provided, however, that if the basis for any
347 suspension or revocation of a casino license is any action or omission of a party in interest to a
348 licensee, then the authority shall prior to enacting such suspension or revocation grant the
349 licensee a reasonably opportunity to remove such party in interest or take such other actions as
350 the authority may deem reasonable or appropriate to address the cause of the suspension or
351 revocation. The authority may also suspend the license or registration of any person pending
352 hearing and determination, in any case in which license or registration revocation could result;

353 (t) with the assistance of the state police unit assigned to the division, conduct
354 investigations into the qualifications of all applicants for employment by the authority and by
355 any gaming establishment in a resort casino and all applicants for licensure;

356 (u) request and receive from the state police, the criminal history systems board, or other
357 criminal justice agencies, including but not limited to the federal bureau of investigation and the
358 federal internal revenue service, such criminal offender record information, criminal intelligence
359 information and information relating to criminal and background investigations as necessary for

360 the purpose of evaluating employees of, and applicants for employment by, the authority and any
361 gaming establishment in a resort casino, and evaluating licensees and applicants for licensure.
362 Upon the written request of the executive director, the state authority may receive from the
363 district and juvenile courts, the state police, or the criminal history systems board, such
364 information relating to juvenile proceedings as necessary for the purpose of evaluating
365 employees of, and applicants for employment by, the authority and any gaming establishment in
366 a resort casino, and evaluating licensees of, and applicants for, licensure;

367 (v) conduct hearings in accordance with the provisions of chapter 30A;

368 (w) levy and collect fees, taxes, and fines and impose penalties and sanctions for the
369 violation of the provisions of the licensing provisions of this chapter and the regulations adopted
370 hereunder. At any time within 5 years after any amount of fees, interest, penalties or tax required
371 to be collected pursuant to the provisions of this chapter shall become due and payable, the
372 commission may bring a civil action in the courts of this commonwealth or any other state or of
373 the United States, in the name of the commonwealth of Massachusetts, to collect the amount
374 delinquent, together with penalties and interest. An action may be brought whether or not the
375 person owing the amount is at such time an applicant, licensee or registrant pursuant to the
376 provisions of this act. If such action is brought in this commonwealth, a writ of attachment may
377 be issued and no bond or affidavit prior to the issuance thereof shall be required. In all actions in
378 this commonwealth, the records of the authority shall be prima facie evidence of the
379 determination of the fee or tax or the amount of the delinquency. Each debt that is due and
380 payable as a result of fees, interest, penalties, or taxes required to be collected pursuant to the
381 provisions of this chapter or the regulations adopted thereunder, including any compensation
382 authorized pursuant to this chapter, and each regulatory obligation imposed as a condition upon
383 the issuance or renewal of a license which requires the licensee to maintain, as a fiduciary, a fund
384 for a specific regulatory purpose, shall constitute a lien on the real property in this
385 commonwealth owned or hereafter acquired by the applicant, licensee, or registrant owing such a
386 debt or on whom such an obligation has been imposed. Except as otherwise provided in this
387 chapter, such a lien shall be a first lien paramount to all prior or subsequent liens, claims, or
388 encumbrances on that property;

389 (x) be present through its inspectors and agents at all times during the operation of any
390 resort casino for the purpose of certifying the revenue thereof, receiving complaints from the
391 public relating to the conduct of gaming and wagering operations, examining records of revenues
392 and procedures, inspecting and auditing all books, documents, and records of any licensee,
393 conducting periodic reviews of operations and facilities for the purpose of evaluating current or
394 suggested provisions of this chapter and the regulations adopted thereunder, and otherwise
395 exercising its oversight responsibilities with respect to resort casinos;

396 (y) visit, have access to and inspect, examine, photocopy, and test, without prior notice or
397 approval of any party, all equipment and supplies in any licensed gaming establishment or in any
398 premises where gaming equipment is manufactured, sold or distributed;

399 (z) have access to and inspect, examine, photocopy, and audit all relevant and material
400 papers, books, and records of any affiliate of a licensed gaming establishment that the executive
401 director knows or reasonably suspects is involved in the financing, operation, or management of
402 any entity licensed pursuant to this chapter, either on the affiliate's premises or elsewhere, as
403 practicable, in the presence of the affiliate or any agent thereof;

404 (aa) require that the books and financial or other records or statements of any licensee be
405 kept in a manner that the authority or the bureau deems proper;

406 (bb) audit all relevant material papers, books, and records of an applicant for or person
407 holding any license under this chapter, on such applicant or licensee's premises or elsewhere, as
408 practicable, in the presence of the applicant or licensee or his agent;

409 (cc) provide access to records and cooperate with the division, including answering the
410 division's requests for documents and refer to the division any evidence of a violation of this
411 chapter or the regulations adopted thereunder;

412 (dd) establish licensure and work permits for employees working at the casino and
413 minimum training requirements; provided further the authority may review the professional
414 requirements of employees and update them as needed. The authority shall require that all casino
415 employees be properly trained in their respective professions. The authority may recognize an
416 employee's license from out of state gaming schools if they meet the minimum requirements for
417 the authority and may establish a process for reciprocal licensing of out of state licensed casino
418 employees;

419 (ee) refer to the Massachusetts commission against discrimination matters and
420 information concerning possible violations of Massachusetts law;

421 (ff) require the designation by a licensee of an equal employment officer to enforce the
422 provisions of this section and the regulations adopted hereunder;

423 (gg) ensure that there is no duplication of duties and responsibilities between it and the
424 division, provided, however, that the authority may not place any restriction upon the division's
425 ability to investigate or prosecute violations of this chapter or the regulations adopted hereunder;

426 (hh) enforce in a court of law the provisions of this section or to join in or assist any
427 enforcement proceeding initiated by any aggrieved person;

428 (ii) refer any suspected criminal violation of this chapter to the division; provided,
429 however, that nothing in this subsection shall be deemed to limit the investigatory and
430 prosecutorial powers of other state and local officials and agencies;

431 (jj) provide technical assistance to towns, cities, and districts that are taking executive or
432 legislative actions for the purposes of this chapter;

433 (kk) exercise any other powers of a corporation organized under chapter 156B;

434 (ll) make an annual report of its finance activities, including number of licenses, fines,
435 penalties and violations and other relevant information and make recommendations for improved
436 operations of the licensed casinos to the governor and the general court by March 31, for the
437 prior calendar year; and,

438 (mm) adopt regulations, pursuant to sections 2 and 3 of chapter 30A, to carry out the
439 powers and the provisions of this chapter; and specifically adopt regulations relating to the
440 following matters:

441 (1) the licensing of resort casinos, including regulations relating to the types of
442 establishments, application process, background checks, license fees, bonding requirements, and
443 revocation, suspension, and renewal of licenses;

444 (2) the registration and licensing of gaming services suppliers and non-gaming suppliers,
445 including regulations relating to the application process, background checks, license fees,
446 bonding requirements, the commercial reasonableness of gaming contracts with casino licensees,
447 the demonstrated capacity and experience of a supplier to perform the requirements a contract,
448 and revocations and suspension of licenses;

449 (3) the licensing of parties in interest, including regulations relating to the application
450 process, background checks, license fees, bonding requirements, and revocation and suspension
451 of licenses;

452 (4) the issuance of 1 or more classes of work permits, criteria for different classes of
453 work permits, including regulations relating to the application process, background checks, fees,
454 and revocation and suspension of work permits;

455 (5) the registration and licensing of labor organizations representing the employees of a
456 resort casino;

457 (6) the presentation and/or display of all licenses and work permits;

458 (7) the licensing of gaming schools, if any such school is established in the
459 commonwealth, including regulations relating to the application process, background checks,
460 license fees, and revocation and suspension of licenses;

461 (8) the monitoring of licensees to ensure compliance with this chapter and the regulations
462 adopted thereunder, including but not limited to, requiring that licensees make readily available
463 all documents, materials, equipment, personnel, and any other items that the division may wish
464 to investigate;

465 (9) the posting of applicable statutes at casinos regarding civil and criminal laws
466 applicable to gaming;

467 (10) minimum wage and benefits standards and other conditions of employment for resort
468 casino employees, which standards or conditions may only be waived in a bona fide collective
469 bargaining agreement;

470 (11) the method for collecting any fines, fees, penalties and interest imposed by the
471 authority;

472 (12) the method and standards of operation of gaming establishments including, but not
473 limited to, games, the type and manner of gaming, wagering limitations, odds, and hours of
474 operation; provided, however, the authority shall not restrict the number of hours of operation of
475 any gaming establishment to fewer hours than any competing gaming establishment in
476 Massachusetts;

477 (13) the manufacturing, distribution, sale, testing, servicing, regulation and inspection of
478 gaming equipment for use in licensed casinos, including requirements for the identification and
479 licensing of same;

480 (14) any limitations on mortgage security interests and agreements relating to the
481 property of licensed gaming establishments;

482 (15) any limitations on transfers of interests in licenses;

483 (16) advertising by licensed gaming establishments, including the monitoring of
484 advertising, particularly to ensure that it is not directed at minors and other vulnerable
485 populations; provided, however, licensees shall have the right to conduct reasonable advertising
486 consistent with that of competing gaming facilities, and the state lottery;

487 (17) the manner in which winnings, compensation from games, and gaming devices must
488 be compiled and reported by the authority; provided further, that electronic gaming devices shall
489 return as winnings at a minimum 85 percent of all sums wagered;

490 (18) standards for protection of the health, safety, and security of the public at licensed
491 gaming establishments;

492 (19) the procedures for renewal of all licenses awarded under this chapter;

493 (20) the minimum procedures to be adopted by each gaming establishment to exercise
494 effective supervisory and management control over its fiscal affairs, including the requirement of
495 an annual audit undertaken in accordance with generally accepted accounting principles, and the
496 requirement that quarterly reports be provided by gaming establishments to the authority no
497 more than 30 days after the close of each quarter;

498 (21) the persons to be excluded or ejected from gaming establishments, including the type
499 of conduct prohibited and whether and under what conditions persons under age 21 may be
500 permitted to enter casinos; and

501 (22) the licensing and regulation of the central computer system provider which services
502 electronic gaming devices and on and off site auditing of electronic gaming devices; provided
503 that, the authority shall ensure that the central computer system shall employ a widely accepted
504 gaming industry protocol to facilitate slot machine manufacturers' ability to communicate with
505 the statewide system; and provided further, that the central computer system provider selected by
506 the authority shall be prohibited from providing electronic gaming devices, or any other form of
507 player activated terminal, for use in connection with the central computer system.

508 The commissioner of revenue shall act as the fiscal agent for the authority for the
509 purposes of collecting all fees and assessments and for this purpose shall have all the powers
510 provided in chapter 62C.

511 In emergencies, the authority may, without complying with sections 2 or 3 of chapter
512 30A, summarily adopt, amend, or repeal any regulation, if, at the time, the authority makes a
513 finding that such action is necessary for the preservation of the public peace, health, safety,
514 morals, good order, or general welfare, together with a statement of the facts constituting the
515 emergency; provided, however, that no emergency action shall exceed 90 days.

516 Notwithstanding any other general or special law to the contrary, all files, records,
517 reports, and other information in the possession of any state or local governmental agency
518 including tax filings and related information that are relevant to an investigation by the authority
519 conducted pursuant to this chapter shall be made available by such agency to the authority as
520 requested, except that investigatory materials compiled by law enforcement out of the public
521 view whose disclosure would materially prejudice the possibility of effective law enforcement
522 shall not be subject to this requirement. Any tax or financial information received from a
523 governmental agency shall be used solely for effectuating the purposes of this chapter. To the
524 extent that these files, records, reports, or information are confidential or otherwise privileged
525 from disclosure under any law, they shall not lose that confidential or privileged status for having
526 been disclosed to the authority; provided further, that the authority shall consult with the division
527 of public records regarding the handling of this information.

528 The authority shall make a continuous study and investigation of gaming throughout the
529 commonwealth in order to ascertain the adequacy and effectiveness of state gaming law or

530 regulations and may formulate recommendations for changes in such laws and regulations;
531 provided further, that the study shall include economic, public health, security, taxation, traffic,
532 regional housing, regional education, regional infrastructure and environmental impacts. The
533 authority shall also make a continuous study and investigation of the operation and
534 administration of similar laws in other states or countries, of any literature or reports on the
535 subject, and of any federal laws which may affect the operation of gaming in the commonwealth,
536 all with a view to recommending or effecting changes that will tend to better serve and
537 implement the purposes of this chapter.

538 Section 4. Restrictions on prior employment and post employment by authority
539 employees, members of the board, and executive branch employees; conflicts of interest and
540 scope of employment.

541 (a) Prior Employment. No person shall be appointed to or employed by the authority if,
542 during the period commencing 3 years prior to appointment or employment, that person held any
543 direct or indirect interest in, or any employment by, any person which is licensed as a casino
544 licensee, a casino service industry licensee, or a dog or horse racing licensee in the
545 commonwealth or in another state or has an application for a gaming establishment license
546 pending before the authority.

547 (b) Conflicts of Interest. Chapter 268A shall apply to all board members of the authority,
548 all advisory committee members, and to all employees of the authority, except as specifically
549 provided herein.

550 (1) The authority shall adopt a code of ethics that governs relationships and dealings
551 between authority employees and licensees or applicants for licensure under this chapter.

552 (2) The codes of ethics adopted by the authority shall not be in conflict with the laws of
553 the commonwealth, provided, however, that those codes of ethics may be more restrictive than
554 any law of this commonwealth, including chapter 268A.

555 (3) The codes of ethics adopted by the authority shall be subject to the approval of the
556 state ethics commission.

557 (4) All board members of the authority, all advisory committee members, all employees
558 of the authority, and the spouse of each such individual, shall file a statement of financial
559 interests for the preceding calendar year with the state ethics commission. The statement of
560 financial interests filed pursuant to this section shall be on a form prescribed by the state ethics
561 commission pursuant to chapter 268B and shall be signed under penalty of perjury by the
562 reporting person. The statement of financial interests shall be filed with the state ethics
563 commission within 30 days after the individual assumed his or her responsibilities with the
564 authority, on or before May first of each year thereafter that such individual is associated with
565 the authority as a board member, advisory committee member or employee, and on or before

566 May first of the year after such individual ceases to be associated with the authority; provided,
567 however, that no statement of financial interest shall be required to be filed for the year in which
568 the individual ceased to be associated with the authority if he or she served less than thirty days
569 in such year.

570 (c) Restrictions on Post Employment.

571 (1) No board member, including those board members who hold elected office, and no
572 advisory committee member of the authority shall hold any direct or indirect interest in, or be
573 employed by, any applicant or by any person licensed by or registered with the authority for a.
574 period of 3 years commencing on the date the membership on the authority terminates.

575 (2) No employee of the authority may acquire any direct or indirect interest in, or accept
576 employment with, any applicant or any person licensed by or registered with the authority, for a
577 period of 3 years commencing at the termination of employment with the authority.

578 (3) No authority employee shall represent any person or party other than the
579 commonwealth before or against the authority for a period of 3 years from the termination of the
580 employee's employment with the authority.

581 (4) No partnership, firm or corporation in which a former authority board member or
582 employee or former division employee or agent has an interest, nor any partner, officer or
583 employee of any such partnership, firm or corporation shall make any appearance or
584 representation which is prohibited to that former member, employee, or agent; provided,
585 however, that nothing herein shall prohibit such partnership, firm or corporation from making
586 such appearance or representation on behalf of a casino service industry licensed under this
587 chapter.

588 (5) No person who was an employee of the commonwealth's executive branch between
589 January 4, 2007 and the date of enactment of this act, shall be employed by the authority, for a
590 period of 3 years commencing at the termination of employment with the executive branch.

591 (6) No person who was an employee of the commonwealth's executive branch between
592 January 4, 2007 and the date of enactment of this act, shall be employed by any person which is
593 licensed as a casino licensee, a casino service industry licensee, or a dog or horse racing licensee
594 in the commonwealth or has an application for a gaming establishment license pending before
595 the authority, for a period of 3 years commencing at the termination of employment with the
596 executive branch.

597 (7) Prior to appointment or employment, each board member of the authority, each
598 advisory committee member, and each employee of the authority, shall swear or affirm that he
599 possesses no interest in any business or organization licensed by, or registered with, the
600 authority.

601 (d) Scope of Employment. In addition to the requirements stated herein, all authority
602 employees, authority board members, and advisory committee members shall be subject to
603 chapter 268B. The stricter provisions of this section shall prevail over the provisions of chapter
604 268A.

605 Neither the authority nor any of its officers, agents, employees, consultants or advisors
606 shall be subject to the provisions of sections 9A, 45, 46 and 52 of chapter 30, or to chapter 31, or
607 to chapter 200 of the acts of 1976.

608 All officers and employees of the authority having access to its cash or negotiable
609 securities shall give bond to the authority at its expense in such amounts and with such surety as
610 the board may prescribe. The persons required to give bond may be included in 1 or more
611 blanket or scheduled bonds.

612 No employee, or member of the authority, or their family members shall be permitted to
613 place a wager in any gaming establishment licensed by the authority except in the course of his
614 duties.

615 Section 5. Provisions for Applications of Casino Licenses

616 (a) Forms of Application. Any person desiring to establish a resort casino in the
617 commonwealth shall bid for one by make an application to the authority for a casino license.

618 (1) Such application shall include, but shall not be limited to the following:

619 (i) the name of the applicant;

620 (ii) the post office address of the applicant, and if a corporation, the name of the
621 state under the laws of which it is incorporated, the location of its principal place of business and
622 the names and addresses of its directors and stockholders;

623 (iii) an independent audit report of all the applicant's financial activities,
624 including but not limited to the disclosure of all contributions, donations, loans or any other
625 financial transactions to or from any gaming entity or operator in the past 5 years;

626 (iv) an independent audit report of all of the applicants' financial interests;

627 (v) the location of the proposed resort casino, which shall include address(es),
628 maps, and book and page numbers from the appropriate registry of deeds, assessed value of land
629 to be purchased or currently in ownership, market value of the land at the time of application, the
630 zoning of the site (including whether gaming facilities are allowed either as a matter of right or
631 by special permit on any portion of the property), ownership status over the past 5 years,
632 (including all interests, options, agreements in property), demographic, geographic, and
633 environmental information, and any other information requested by the authority;

634 (vi) the proposed architects and designers for the resort casino, which shall include the
635 name and addresses of the architects, engineers, and designers, and timeline of construction and
636 phases of construction;

637 (vii) the types of games and gaming to be conducted at the resort casino, number of tables
638 and electronic gaming devices that are proposed to be employed at the casino, and the specific
639 location of the gaming at the casino site;

640 (viii) a description of the ancillary entertainment services and amenities to be provided at
641 the proposed resort casino;

642 (ix) the number of hotels, rooms per hotel and other amenities located at the proposed
643 resort casino;

644 (x) the number of employees to be employed at the resort casino, including detailed
645 information on the pay rate and benefits for employees, including any contractors;

646 (xi) the total amount of investment by the applicant in the resort casino, including all
647 facilities located at the casino site and all infrastructure improvements related to the project;

648 (xii) completed studies and reports as required by the authority, which shall include, but
649 are not limited to, an economic benefit study, both for the commonwealth and region; a study of
650 the potential impact on the host community and other impacted communities; an environmental,
651 traffic and local infrastructure impact study, a study on the impact of the proposed resort casino
652 to the local and regional economy, the cost to the municipality and the state for the casino to be
653 at its proposed location, and the total amounts of municipal and state tax revenue to be generated
654 by the applicant;

655 (xiii) whether the applicant's casino is part of a regional or local economic plan;

656 (xiv) whether the applicant is partnering with a federally recognized native American
657 tribe located in the commonwealth;

658 (xv) whether the applicant has a contract with organized labor and has the support of
659 organized labor for its application;

660 (xvi) whether the applicant will be using publicly owned land for the resort casino;

661 (xvii) a statement that the applicant will comply, in case such a license is issued, with all
662 applicable laws and with all applicable rules and regulations prescribed by the authority or any
663 other relevant entity;

664 (xviii) a statement that the applicant shall mitigate the potential negative public health
665 consequences associated with gambling and the operation of a destination resort casino. As part
666 of this submission, the applicant must agree to:

667 (A) maintain as smoke free all indoor facilities operated by the licensee or anyone
668 working for or under contract with the licensee;

669 (B) provide complimentary on-site space for an independent substance abuse and mental
670 health counseling service to be selected by the commonwealth;

671 (C) prominently display information on the signs of problem gambling and how to access
672 assistance;

673 (D) describe a process for individuals to exclude their names and contact information
674 from the licensee's database or any other list held by the licensee for use in marketing or
675 promotional communications;

676 (E) provide to the commonwealth aggregate demographic information with respect to its
677 customers in a manner and pursuant to a schedule to be defined by the commonwealth;

678 (F) institute other public health strategies as determined by the authority;

679 (xix) a detailed plan showing the levels of security and safety for its employees, guests,
680 equipment and money; and

681 (xx) answers to such other questions as the authority may prescribe.

682 (2) The authority may prescribe forms and additional information to be used in making
683 such applications.

684 (3) An applicant's request to receive a license under this chapter shall constitute a request
685 for a determination of the applicant's general character, integrity, and ability to participate or
686 engage in, or be associated with, gaming.

687 (4) Such applications shall be signed and sworn to, if made by an individual, by such
688 individual; if made by 2 or more individuals or a partnership, by 1 of such individuals or by a
689 member of such partnership; if made by a trust, by a trustee of such trust; and if made by an
690 association or corporation, by the chief executive and chief financial officers thereof.

691 (5) The authority shall investigate the qualifications of each applicant under this chapter
692 before any license is issued.

693 (6) With each application, there shall be delivered to the authority a certified check or
694 bank draft, payable to the authority, of a non-refundable deposit in the amount of $350,000 for
695 the processing, analysis and review of the application.

696 (b) Eligibility. No person shall be eligible to bid on a resort casino license unless the
697 person meets the following initial criteria and clearly states as part of an application that the
698 person:

699 (1) agrees to be a state lottery reseller for the purpose of lottery and keno games, and to
700 demonstrate that state lottery and keno games are readily accessible to its guests;

701 (2) shall invest no less than $1 billion into the resort casino project, with at least
702 $300,000,000 in investment in the project and related improvements committed in an initial
703 phase and the balance being committed over the following five years, neither of which amounts
704 shall include the purchase or lease price of the land where the casino will be located;

705 (3) meets the licensee bonding requirement as set by the authority;

706 (4) has a debt to equity ratio of not more than 4:1 when the application is submitted;

707 (5) has ownership of land located in a market where the resort casino will be constructed
708 and that all or some portion of the land is zoned to allow gaming as-of right or by special permit;

709 (6) shall demonstrate that it is able to pay and shall commit to paying (y) the licensing fee
710 of $225,000,000, as established in section 6, and (z) the operating licensing payments of 27
711 percent of all gross gaming revenues;

712 (7) has submitted certified copies of resolutions adopted after the effective date of this act
713 by the legislative bodies of a majority of the municipalities in the applicable county, following
714 recommendations from the respective chief executive municipal officials, which resolutions
715 affirm that such legislative bodies approve the establishment of a resort casino within such
716 county;

717 (8) shall provide for a community impact fee for the local host community;

718 (9) shall pay for infrastructure costs of the host and surrounding communities incurred in
719 direct relation to the construction and operation of a resort casino;

720 (10) shall provide to the authority a signed agreement between the host community and
721 the applicant to have a resort casino located within the host community; provided that the
722 agreement shall include the community impact fee for the local host community and all
723 stipulations of responsibilities between the local host community and the applicant;

724 (11) shall be able to comply with state and local building codes; and

725 (12) shall formulate for authority approval and abide by an affirmative-action program of
726 equal opportunity whereby the applicant guarantees to provide equal employment opportunities
727 to all employees qualified for licensure in all employment categories, including a person with a
728 disability, in accordance with Massachusetts law.

729 (c) Bid Procedure for Each Market

730 (1) The authority shall request bids for the purpose of awarding casino licenses in each
731 market.

732 (2) The authority shall accept bids only from applicants who have met the initial
733 eligibility requirements pursuant to subsection (b) of this section.

734 (3) Before applications are received, the authority shall adopt regulations setting forth
735 criteria by which each bid shall be evaluated in each region.

736 (4) The bids shall be evaluated to determine which proposal provides the highest and best
737 value to the market and to the commonwealth. The criteria for determining the highest and best
738 value to each market and the commonwealth shall include, but shall not be limited to, the
739 following:

740 (i) the overall economic benefit to the commonwealth;

741 (ii) the amount of the operating licensing payment projected by the application based on
742 payment of 27 percent of gross gaming revenue;

743 (iii) the proposed infrastructure improvements and economic development opportunities
744 to the commonwealth, the local host community and the region where the resort casino is located
745 and the timeline for commencement and completion of such improvements and opportunities;

746 (iv) the extent to which the applicant shall contract with Massachusetts business owners
747 for the provision of services and goods at the casino;

748 (v) the extent to which the proposed project is consistent with the commonwealth's
749 sustainable development principles. For purposes of this section, consistency with these
750 principles means at a minimum the following:

751 (A) the resort casino has been certified or is capable of being certified as gold or higher
752 pursuant to the U.S. Green Building Council Neighborhood Development Rating System. The
753 authority may prescribe an alternative, independent, third-party rating after consultation with the
754 secretary of the executive office and energy and environmental affairs, if, for example, that
755 rating system is not in effect at the time of the license application;

756 (B) the resort casino's proposed buildings have been certified or are capable of being
757 certified as gold or higher pursuant to the green building rating system established by Leadership
758 in Environmental and Energy Design (LEED). The authority may prescribe an alternative
759 independent, third-party rating after consultation with the secretary of the executive office of
760 energy and environmental affairs, if, for example, that rating system is not in effect at the time of
761 the license application;

762 (C) the electrical equipment and appliances used by the casino meet United States
763 Environmental Protection Agency efficiency standards;

764 (D) the casino shall procure 10 percent of its annual electricity consumption from
765 renewable sources identified by the division of energy resources pursuant to section 11F of
766 chapter 25A. This requirement may be achieved through procurement of renewable energy
767 supply, through the production of on-site renewable power, and/or the purchase of renewable
768 energy certificates;

769 (E) should the casino develop open space land, the applicant shall purchase, or impose a
770 conservation restriction upon, open space land of equal or greater size to the open space land
771 developed by the casino. Any such conservation restriction shall comply with section 32 of
772 chapter 184; and

773 (F) there are alternative transportation options for patrons to access the casino so that
774 carbon emissions are minimized.

775 (vi) the number of permanent jobs created by the casino licensee; provided, that the
776 licensee shall create at least 5,000 new permanent jobs at the casino, or through casino service
777 providers, over a 5-year period;

778 (vii) whether the applicant agrees to work collaboratively with the Massachusetts
779 workforce development system, including the appropriate local workforce entities, to create a
780 workforce development plan to recruit and train residents of the commonwealth for the casinos,
781 including those who face barriers in finding employment, such as people with low incomes or
782 receiving public assistance, the long-term unemployed, veterans, individuals with disabilities,
783 and participants in federal and state workforce programs;

784 (viii) whether the applicant shall establish, fund, and maintain internal human resource
785 hiring and training practices that promote the development of a skilled and diverse workforce
786 with access to promotion opportunities by a workforce-training program designed to foster a
787 skilled and diverse workforce by:

788 (A) establishing transparent career paths with measurable criteria within the casinos that
789 lead to increased responsibility and higher pay grades that are designed to allow employees to
790 pursue career advancement and promotion;

791 (B) establishing employee access to additional resources, such as tuition reimbursement
792 or stipend policies, to enable employees to acquire the education or job training needed to
793 advance career ladders based on increased responsibility and pay grades;

794 (C) establishing an on-site child day care program;

795 (D) establishing a program to train the casino workforce in the identification of and
796 intervention with customers exhibiting problem gaming behavior;

797 (E) where appropriate, applying for and using workforce training funds grants established
798 under section 2RR of chapter 29 to enhance employee skills; and

799 (F) establishing access to "career coaches" to assist employees with understanding career
800 advancement opportunities within the resort casino, as well as where appropriate, establishing an
801 employee mentoring program to train and retain entry level employees.

802 (ix) the architectural plans or site plans of all structures and facilities to be used as part of
803 the resort casino;

804 (x) whether the applicant is including in its application contracts with labor organizations
805 and a provision assuring labor harmony during all phases of such construction, renovation, or
806 reconstruction of the resort casino;

807 (xi) whether all contracts and subcontracts to be awarded in connection therewith shall
808 contain appropriate provisions by which contractors and subcontractors or their assignees agree
809 to afford an equal employment opportunity to all prospective employees and to all actual
810 employees to be employed by the contractor or subcontractor in accordance with an affirmative
811 action program approved by the authority and consonant with the provisions of Massachusetts
812 and federal law; and

813 (xii) the extent to which the applicant shall mitigate public safety effects;

814 (xiii) the extent to which the applicant shall provide funding for the marketing of
815 Massachusetts as a tourist destination.

816 (5) In assessing the highest and best value to the commonwealth, the authority shall take
817 into account the commonwealth's policy determination that the commonwealth shall have no
818 more than 3 gaming establishments.

819 (6) It shall be the burden of the applicant to provide convincing evidence in its
820 application, to the satisfaction of the authority, that a resort casino shall provide the highest and
821 best value to the market in which it is located and to the commonwealth.

822 (7) As part of its determination for licensure, the authority shall investigate and consider
823 the positive and negative effects a casino facility will have to the host community and
824 communities impacted by the project, provided further, that factors to consider include, but are
825 not limited to, the regional and local economy, the number and location of resort casinos, job
826 creation or loss, road and traffic, public access (including public transportation), water, drainage,
827 sewer, fire department coverage, police department coverage and other public safety coverage,
828 emergency access, housing, public education influx, state and municipal creation or reduction
829 and other infrastructure related issues.

830 Section 6. Awarding of and Conditions of Licenses

831 (a) The authority may award casino licenses based on the applications and bids submitted
832 to the authority.

833 (b) Number of Casino Licenses. Notwithstanding any general or special laws to the
834 contrary, the authority shall award no more than 3 casino licenses in the commonwealth, with no
835 more than 1 license awarded per market; subject to the limitations set forth in Section 6(j)(2).

836 (c) Nothing in this chapter shall require the awarding of a license to a market. If the
837 authority is not convinced that an applicant has both met the eligibility criteria and provided
838 convincing evidence that the applicant shall provide the highest and best value to the market in
839 which the resort casino is located and to the commonwealth, no casino license may be awarded
840 in that market.

841 (d) For the purposes of determining which applicant may be awarded a license, each
842 applicant's bid shall be evaluated to determine which will provide the highest and best value to
843 the market and to the commonwealth based on the criteria set out in section 5, and any other
844 terms the authority determines by regulation.

845 (e) If there is more than 1 applicant in a market who is determined by the authority to be
846 eligible for a casino license pursuant to section 5, the authority shall determine which application
847 presents the highest and best value to the market and the commonwealth according to the criteria
848 set forth in section 5.

849 (f) If an applicant is awarded a casino license, the casino licensee shall pay the
850 commonwealth the following fees:

851 (1) a licensing fee in the amount of $225,000,000;

852 (2) an annual operating licensing payment in the amount equal to 27 percent of all gross
853 gaming revenues. Following the initial issuance of a casino license, so long as the casino
854 license remains in good standing, and to enable the applicant to secure commercially reasonable
855 financing of the project, no casino licensee shall be required to make annual operating license
856 payments at a rate in excess of the amount set forth in the preceding sentence.

857 (g) Provided that a casino licensee has first entered a memorandum of understanding with
858 the Secretaries of Transportation and Environmental Affairs regarding the gaming establishment,
859 related public infrastructure improvements and environmental impacts, and except for any permit
860 or approval required by local zoning and a building permit and certificate of occupancy with
861 respect to matters directly regulated by the state building code, notwithstanding any general or
862 special laws to the contrary an applicant receiving a casino license shall not be required to apply
863 for, file for, obtain or maintain any permit, license or approval from, and shall not be required to
864 apply for, file for or undergo any impact or other review process with or by the commonwealth
865 or any political subdivision thereof or any agency, department, commission or authority of any of

866 the foregoing, for or directly or indirectly in connection with the permitting, financing,
867 construction, renovation, maintenance, use and occupation of a resort casino and related site
868 improvements and amenities on the approved site of the gaming establishment and related public
869 infrastructure improvements.

870 (h) No person or affiliate may be awarded more than 1 license and no person directly, or
871 indirectly through an affiliate, may have an interest in more than 1 license.

872 (i) Each license is renewable every 10 years, from the date of first issuance. The first 10-
873 year renewal shall be automatic and shall not require any gaming license fee or renewal fee. The
874 authority shall adopt regulations to establish standards and the process concerning the
875 renewability of licenses subsequent to the second 10-year term.

876 (j) Conditions of Casino Licensure.

877 (1) Every casino licensee shall have an affirmative obligation to abide by every statement
878 made in its application to the authority and every statement made in its bid submission to the
879 authority pursuant to subsection (c) of section 5.

880 (2) The authority shall make an assessment in each fiscal year against each licensee
881 operating a casino in the commonwealth. This assessment is in addition to the licensing fee and
882 the operating licensing payment paid by each licensee. This assessment shall be reasonable and
883 made at a rate as shall be reasonably determined and certified annually by the authority as
884 sufficient to produce revenue to reimburse the commonwealth for funds appropriated for the
885 operation of the authority and the division, including the dedicated state police units attached to
886 the division, and public safety costs, including amounts sufficient to cover the cost of fringe
887 benefits as established by the secretary of administration and finance under section 6B of chapter
888 29. This assessment shall be made proportionately against each licensee based on the
889 proportionate number of gaming devices and tables operated by that licensee. Each licensee
890 against whom an assessment is made shall pay over daily to the authority a pro rata share of the
891 assessment as determined by the authority. If the authority fails to expend in any fiscal year the
892 total amount assessed under this section, any amount unexpended shall be credited against the
893 assessment to be made in the following year and the assessment in such following year shall be
894 reduced by that unexpended amount.

895 (3) Each licensee shall pay the total amount of the licensing fee set forth in subsection
896 6(f)(1) in three equal annual installments, the first such installment to be paid within 60 days of
897 the grant of the resort casino license and receipt of all other licenses and permits reasonably
898 necessary (as determined by the authority) for the applicant to secure commercially reasonable
899 financing of the project, the second installment to be paid on or before the first anniversary of the
900 first payment, and the third installment to be paid on or before the second anniversary of the first
901 payment.

902 (4) Each licensee shall pay daily to the commissioner of the department of revenue as the
903 agent of the authority, the operating licensing payment, as provided in section 5.

904 (5) No licensee shall operate, invest or own, in whole or in part, another licensee's license
905 or casino. If a licensee is found in violation of this section, they will be fined up to $5,000 per
906 day for violations.

907 (6) No licensee shall be permitted to transfer its casino license or any interest such
908 licensee may have in the gaming establishment or the real property upon which it is located, and
909 no substantial party in interest shall be permitted to transfer its interest in the licensee, whether
910 through a sale, option contract, or other agreement or contract providing for such transfer in the
911 present or future, without the notification of and approval by the authority. The authority shall
912 adopt rules and regulations for determination of the approval of any such transfer. In the event
913 that within the first five years following the issuance of a casino license to a licensee there is
914 either (i) a transfer by a licensee of its casino license or any interest such licensee may have in
915 the gaming establishment or the real property upon which it is located, or (ii) a transfer by a
916 substantial party in interest of a controlling interest in the licensee, the authority may require
917 either the transferor or transferee or both, as determined by the authority, to pay to the
918 commonwealth an amount representing the increased value attributable specifically to the casino
919 license; provided, that the authority shall consider as a factor in determining the amount of the
920 payment the difference in value of the licensee's property and the improvements thereon (which
921 shall be excluded from the value of the license) between the time when the licensee received the
922 license and the time of or anticipated time of the transfer through the average of 3 separate
923 assessments made by the licensee, the authority and an independent assessor chosen by the
924 authority, and the cost of that assessment shall be part of the payment of the transfer; provided
925 further, that the authority shall consider as a factor in determining the amount of the payment the
926 increased value of the property, land, establishment, management agent, entity or business value
927 as a result of possessing a gaming operator's license; provided further, that the authority shall
928 consider as a factor in determining the amount of the payment the prior capital investments made
929 by the licensee, the marketing and other business development expenses incurred by the licensee,
930 the financing costs incurred by the licensee prior to such transfer, and any additional economic
931 value created by the licensee. In no event shall a transfer of any rights to a bona fide commercial
932 financial institution pursuant to any commercially reasonable financing be deemed to be a
933 transfer; provided further, that the authority may reject such transfer if it deems the transferee to
934 be unsuitable. The authority shall adopt rules and regulations for the reasonable determination of
935 the payment which serves the best interest of the commonwealth as a result of the transfer;
936 provided that the authority may consider the actual increase or decrease in the pecuniary value of
937 the license, the real property, and the shares of interest among the time it was initially purchased,
938 the time of receiving a license and the time of the transfer; provided further, that any payments
939 collected by the authority on behalf of the Commonwealth are deposited in the same manner as
940 license fees are deposited with the commonwealth.

941 The authority may place any condition or restriction on the transfer of a license or interest
942 held by a substantial party in interest, and in all instances it shall consider whether additional
943 compensation is owed to the Commonwealth pursuant to the foregoing paragraph.

944 No casino licensee shall be permitted to change its form of business governing structure
945 on file with the secretary of state as of the date of its license application without the notification
946 and approval of the authority.

947 The authority shall monitor the conduct of all licensees and other persons having a
948 material involvement, directly or indirectly, with a licensee for the purpose of ensuring that
949 licenses are not issued to, or held by, and there is no direct or indirect material involvement with
950 a licensee by unqualified, disqualified, or unsuitable persons.

951 (7) Each licensee shall be required to have an office available to the authority. The
952 authority shall establish the minimum requirements for the office.

953 (8) Each licensee shall be required to have an office available for the division's state
954 police personnel. The authority shall establish the minimum requirements for square footage for
955 the state police office, office furnishings, and parking space.

956 (9) All licensees shall make readily available all documents, materials, equipment,
957 personnel and any other items that the attorney general may desire to conduct an investigation. A
958 licensee may withhold material that may be considered a trade secret or detrimental to the
959 licensee if it were made public and have it adjudicated before the authority as to its protected
960 status, and require non-disclosure agreements between the attorney general and the authority for
961 such material.

962 (10) The licensee shall cooperate with the division with respect to the investigation of any
963 criminal matter that is discovered on its property. The licensee shall, upon receipt of criminal or
964 civil process compelling testimony or production of documents in connection with any civil or
965 criminal investigation, immediately disclose such information to the authority. This section does
966 not prohibit private persons or public entities from seeking any remedy or damages against a
967 licensee.

968 (11) All licensees shall have a duty to inform the authority of any action which they
969 reasonably believe would constitute a violation of this chapter, and shall assist the authority and
970 any federal or state law enforcement agency in the investigation and prosecution of such
971 violation. No person who so informs the authority shall be discriminated against by an applicant
972 or licensee because of the supplying of such information.

973 (12) All licensees shall collect and annually report to the authority a statistical report on
974 the number of candidates hired and retained in employment in connection with the workforce
975 development plan and the affirmative action program respectively required by sections 5(b).

976 Failure to comply with this section shall cause a licensee to forfeit any state workforce training
977 funds or economic incentives.

978 (13) All licensees shall agree to make a good faith effort to identify and recruit candidates
979 from the local labor market area and other nearby labor market areas to ensure a diverse
980 workforce. Failure to comply with this section shall cause a licensee to forfeit any state
981 workforce training funds or economic incentives.

982 (14) Every casino licensee shall keep conspicuously posted on his premises a notice
983 containing the name and numbers of the council on compulsive gambling and a statement of its
984 availability to offer assistance. The authority may require the licensee to provide this information
985 in 1 or more languages.

986 Section 7. Storage of Documents and Non-Disclosure of Sensitive Documents and
987 Materials

988 The authority shall maintain a file of applications for licenses under this chapter, together
989 with a record of all action taken by the authority on those applications. Such applications shall be
990 open to public inspection; provided however, that the executive director shall prohibit access to
991 information that contains law enforcement or investigatory information, is a trade secret, or puts
992 the applicant for a license at an unfair disadvantage with other applicants; provided further, that
993 the executive director shall consult with the division on public records on the appropriate manner
994 of distributing or withholding of such information. The authority may maintain any other files
995 and records as it deems appropriate.

996 Section 8. Authority Operating Account

997 There shall be established upon the books of the commonwealth a separate fund to be
998 known as the Massachusetts gaming control authority trust fund to be expended, without prior
999 appropriation, by the Massachusetts gaming control authority. The fund shall consist of the
1000 application fees collected pursuant to section 5(a)(6), and all assessment payments collected
1001 from section 6. The executive director of the authority shall make necessary expenditures from
1002 this account for the shared administrative costs of the operations and programs of the authority.
1003 The executive director shall further direct that funds from the account shall be expended to
1004 provide services in an amount reasonably related to the functions of the authority and the
1005 comptroller may certify for payment amounts in anticipation of expected receipts; but no
1006 expenditure shall be made from the fund which shall cause the fund to be in deficit at the close of
1007 each fiscal year. The authority shall pay the attorney general the amount it requested under
1008 section 14(b) by July first of each year.

1009 Section 9. Gaming License Fee Trust Fund

1010 (a) There shall be established and set up on the books of the commonwealth a separate
1011 fund, to be known as the gaming license fee trust fund, in this section called the license fee trust
1012 fund. The license fee trust fund shall consist of all license fees received in consideration of the
1013 award of licenses under section 6, and all other monies credited or transferred to the fund from
1014 any other fund or source pursuant to law.

1015 (b) The secretary of administration and finance shall be the trustee of the license fee trust
1016 fund, and shall transfer monies in the fund, without further appropriation, as of June 30 of each
1017 fiscal year, only as follows and in the following order:

1018 (1) only if and to the extent determined by the secretary of administration and finance,
1019 initial payments to the authority and to the division for start-up expenses;

1020 (2) the remaining one-half of the balance in the fund, to the general fund; and

1021 (3) the other remaining one-half of the balance in the fund, to the local taxpayer relief aid
1022 trust fund established by section 14.

1023 Section 10. Gaming Operating Licensing Payment Trust Fund

1024 (a) There shall be established and set up on the books of the commonwealth a separate
1025 fund, to be known as the gaming operating license payment trust fund, in this section called the
1026 operating licensing payment fund. The operating licensing payment fund shall consist of all
1027 operating licensing payments received in consideration of the award of licenses under section 6,
1028 and all other monies credited or transferred to the fund from any other fund or source pursuant to
1029 law.

1030 (b) The secretary of administration and finance shall be the trustee of the license proceeds
1031 fund, and shall transfer monies in the fund, without further appropriation, as of June 30 of each
1032 fiscal year, only as follows and in the following order:

1033 (1) to the host community mitigation trust fund established by section 11, an amount that
1034 is 2 percent of all operating licensing payments made to the operating licensing payment fund
1035 under this section;

1036 (2) to the regional community mitigation trust fund established by section 12, an amount
1037 that is 1 percent of all operating licensing payments made to the operating licensing payment
1038 fund under this section;

1039 (3) to the public health trust fund established by section 13, an amount that is 2.5 percent
1040 of all operating licensing payments made to the operating licensing payment fund under this
1041 section, but in no event more than $45,000,000 in any fiscal year;

1042 (4) to the public safety trust fund established by section 14, an amount that is 0.5 percent
1043 of all operating licensing payments made to the operating licensing payment fund under this
1044 section;

1045 (5) to the tourism promotion trust fund established by section 15, an amount that is 0.5
1046 percent of all operating licensing payments made to the operating licensing payment fund under
1047 this section;

1048 (6) to the live racing industry preservation trust fund established by section 16, an amount
1049 that is 1 percent of all operating licensing payments made to the operating licensing payment
1050 fund under this section, but in no event more than $20,000,000 in any fiscal year;

1051 (7) to the fund any reduction in local aid payments made by the state lottery, an amount
1052 that is the difference between the average of the total amounts funded to local cities and towns in
1053 the three fiscal years prior to enactment of this Act, adjusted in each fiscal year after fiscal year
1054 2009 by the average increase for the above period, and the total amount local aid payments made
1055 by the state lottery in the current fiscal year if less than that adjusted average amount;

1056 (8) half of the remaining balance in the fund, to the general fund;

1057 (9) the remaining balance in the fund, to the local taxpayer relief aid trust fund
1058 established by section 17.

1059 Section 11. Host Community Mitigation Trust Fund

1060 (a) There shall be established and set up on the books of the commonwealth a separate
1061 fund, to be known as the host community mitigation trust fund, in this section called the
1062 mitigation fund. The mitigation fund shall consist of the monies transferred under sections 10,
1063 and all other monies credited or transferred to the fund from any other fund or source pursuant to
1064 law.

1065 (b) The secretary of administration and finance shall be the trustee of the mitigation fund
1066 and shall expend monies in the fund, without further appropriation, to assist the local host
1067 communities in which any resort casino facilities are located, to address any increases in police,
1068 fire, transportation, water, sewer, enforcement and prosecution costs, or other services directly
1069 related to the construction and operation of the facilities. The secretary of administration and
1070 finance may adopt regulations, after a public hearing, governing these expenditures.

1071 Section 12. Regional Community Mitigation Trust Fund

1072 (a) There shall be established and set up on the books of the commonwealth a separate
1073 fund, to be known as the regional community mitigation trust fund, in this section called the
1074 mitigation fund. The mitigation fund shall consist of the monies transferred under section 10, and

1075 all other monies credited or transferred to the fund from any other fund or source pursuant to
1076 law.

1077 (b) The secretary of administration and finance shall be the trustee of the mitigation fund
1078 and shall expend monies in the fund, without further appropriation, to assist the local host
1079 community, cities, towns (other than the specific municipalities in which any resort casino
1080 facilities are located, which shall be eligible for funds from the host community mitigation fund
1081 under section 11) and district attorneys in the vicinity of resort casino facilities, to address any
1082 increases in police, fire, transportation, water, sewer, enforcement and prosecution costs, or other
1083 services directly related to the construction and operation of the facilities; provided, however,
1084 that the authority shall determine which towns and cities will be affected by construction and
1085 operation of the facilities. The secretary of administration and finance may adopt regulations,
1086 after a public hearing, governing these expenditures.

1087 Section 13. Public Health Trust Fund

1088 (a) There shall be established and set up on the books of the commonwealth a separate
1089 fund, to be known as the public health trust fund, in this section called the public health fund.
1090 The public health fund shall consist of the monies transferred under section 10, and all other
1091 monies credited or transferred to the public health fund from any other fund or source pursuant to
1092 law.

1093 (b) The secretary of health and human services shall be the trustee of the public health
1094 fund and shall expend monies in the fund, without further appropriation but subject to approval
1095 of an annual spending plan by the secretary of administration and finance, to meet increased
1096 demand for social service and public health programs resulting from gaming, including but not
1097 limited to gambling prevention and new substance abuse and addiction services, services to
1098 address other problems such as domestic violence and child welfare services, an educational
1099 campaign to mitigate the potential addictive nature of gambling, and on an annual basis, a
1100 comprehensive study and evaluation system to ensure proper and most effective mitigation of
1101 any negative public health costs. The secretary of health and human services may adopt
1102 regulations, after a public hearing, governing these expenditures.

1103 Section 14. Public Safety Trust Fund

1104 (a) There shall be established and set up on the books of the commonwealth a separate
1105 fund, to be known as the public safety trust fund, in this section called the public safety fund.
1106 The public safety fund shall consist of the monies transferred under section 10, and all other
1107 monies credited or transferred to the fund from any other fund or source pursuant to law.

1108 (b) The commissioner of public safety shall be the trustee of the public safety fund and
1109 shall expend monies in the fund, without further appropriation, to address any increases in
1110 police, fire, enforcement and prosecution costs, or other services directly related to the operation

1111 of the facilities. The commissioner of public safety may adopt regulations, after a public hearing,
1112 governing these expenditures.

1113 Section 15. Tourism Promotion Trust Fund

1114 (a) There shall be established and set up on the books of the commonwealth a separate
1115 fund, to be known as the tourism promotion trust fund, in this section called the tourism fund.
1116 The tourism fund shall consist of the monies transferred under section 10, and all other monies
1117 credited or transferred to the fund from any other fund or source pursuant to law.

1118 (b) The secretary of housing and economic development shall be the trustee of the
1119 tourism fund and shall expend monies in the fund, without further appropriation, to assist with
1120 the promotion of tourism in the commonwealth. The secretary of housing and economic
1121 development may adopt regulations, after a public hearing, governing these expenditures.

1122 Section 16. Live Racing Industry Preservation Trust Fund

1123 (a) There shall be established and set up on the books of the commonwealth a separate
1124 fund, to be known as the live racing industry preservation trust fund, in this section called the
1125 live racing fund. The live racing fund shall consist of the monies transferred under section 10,
1126 and all other monies credited or transferred to the fund from any other fund or source pursuant to
1127 law.

1128 (b) The secretary of housing and economic development shall be the trustee of the live
1129 racing fund and shall expend monies in the fund, without further appropriation, to assist with the
1130 promotion and preservation of the live racing industry in the commonwealth, including by
1131 making payments to the purse accounts of racing facilities licensed pursuant to Chapter 128A
1132 and to Massachusetts based breeders associations. The secretary of housing and economic
1133 development may adopt regulations, after a public hearing, governing these expenditures.

1134 Section 17. Local Taxpayer Relief Aid Trust Fund

1135 (a) There shall be established and set up on the books of the commonwealth a separate
1136 fund, to be known as the local taxpayer relief aid trust fund, in this section called the local
1137 taxpayer relief aid fund. The local taxpayer relief aid fund shall consist of the monies transferred
1138 under sections 9 and sections 10 of this act, and all other monies credited or transferred to the
1139 local taxpayer relief aid fund from any other fund or source pursuant to law.

1140 (b) The secretary of administration and finance shall be the trustee of the local taxpayer
1141 relief aid fund and shall allocate monies in the fund to municipalities, without further
1142 appropriation, to supplement local aid payments otherwise made by the commonwealth pursuant
1143 to section 18C of chapter 58.

1144 Section 18. Division of Gaming Investigation and Enforcement

1145 (a) There is hereby established in the department of the attorney general a division of
1146 gaming investigation and enforcement. The attorney general shall designate an assistant attorney
1147 general as director of the division. The director of the division may appoint and remove, subject
1148 to the approval of the attorney general, such expert, clerical or other assistants as the work of the
1149 division may require. The attorney general may purchase any necessary equipment for the
1150 purpose of conducting an investigation. Subject to the approval of the secretary of public safety
1151 and security, the colonel of the state police shall assign such supervisory and investigative
1152 personnel and other resources to the division as may be necessary to fulfill its obligations under
1153 this chapter. The powers and duties of the division shall be as follows:

1154 (1) investigate allegations of crimes committed on the premises, crimes involving or
1155 impacting the operation of the casino or games, and violations of this chapter;

1156 (2) be on the premises at any time that it deems appropriate and inspect and examine all
1157 operations, books, records, and any other documents;

1158 (3) inspect all gaming devices and equipment used or to be used in a resort casino at any
1159 time it deems appropriate;

1160 (4) have access to all records of the authority;

1161 (5) investigate all applications, certificates and permits issued pursuant to the provisions
1162 of this chapter;

1163 (6) conduct all background checks on applicants for employment by the authority and any
1164 gaming establishment in a resort casino and applicants for licensure, including obtaining criminal
1165 record information, and share such information as necessary with the authority; provided that
1166 such background checks shall be conducted by the state police unit assigned to the division;

1167 (7) conduct audits of casino operations at such times, under such circumstances, and to
1168 such extent as the director shall determine, including reviews of accounting, administrative and
1169 financial records, and management control systems, procedures and records utilized by a casino
1170 licensee;

1171 (8) receive and take appropriate action on any referral from the authority relating to any
1172 evidence of a violation of this chapter or the regulations adopted thereunder;

1173 (9) initiate, prosecute, intervene and defend proceedings before the authority, or appeals
1174 therefrom, as the division may deem appropriate;

1175 (10) investigate and enforce the provisions of this chapter and any regulations adopted
1176 hereunder or any gaming related statutes, rules or regulations adopted by any agency,
1177 department, board, commission, division or authority of the commonwealth or any political

1178 subdivision thereof that is involved in controlled gaming pursuant to this chapter, and prosecute
1179 all proceedings for violations of this chapter or any regulations adopted hereunder;

1180 (11) be entitled to request and receive information, materials and any other data from any
1181 licensee or registrant, or applicant for a license or registration under this chapter;

1182 (12) ensure that there is no duplication of duties and responsibilities between it and the
1183 authority; and

1184 (13) report to the attorney general recommendations that promote more efficient
1185 operations of the division.

1186 (b) The division shall be compensated for its duties through the assessment pursuant to
1187 section 6. The attorney general shall submit a budget to the authority by January first for an
1188 annual appropriation, and the authority shall make such appropriation to the division by July first
1189 of each year.

1190 Section 19. Penalties for Licensing and Gaming Violations

1191 (a) Willful evasion of license fees; other acts and omissions.

1192 (1) any person who willfully fails to report, pay, or truthfully account for and pay over
1193 any license fee or tax imposed by the provisions of this chapter or by the regulations adopted by
1194 the authority, or willfully attempts in any manner to evade or defeat any such license fee, tax, or
1195 payment thereof shall be punished by imprisonment in state prison for not more than 5 years or
1196 in a house of correction for not more than 2 and one-half years, or a fine of not more than
1197 $100,000, or both, and in the case of a person other than a natural person, the amount of a fine
1198 may be up to $5,000,000.

1199 (2) any person who willfully resists, prevents, impedes, interferes with, or makes any
1200 false, fictitious, or fraudulent statement or representation to the authority or to the division or to
1201 their agents or employees in the performance of duties pursuant to this chapter shall be punished
1202 by imprisonment in state prison for not more than 5 years or in a house of correction for not
1203 more than 2 years and one-half years, or a fine of not more than $25,000, or both.

1204 (b) Unlicensed gaming unlawful.

1205 (1) any person who conducts or operates, or permits to be conducted or operated, any
1206 game, electronic gaming device, or gaming equipment in violation of the licensing provisions of
1207 this chapter or the regulations adopted by the authority shall be punished by imprisonment in
1208 state prison for not more than 5 years or imprisonment in a house of correction for not more than
1209 2 and one-half years, or a fine of not more than $25,000, or both such fine and imprisonment,
1210 and in the case of a person other than a natural person, the amount of a fine may be up to
1211 $100,000.

1212 (2) any licensee who, without the permission of the authority, (1) places controlled
1213 games, electronic gaming devices, or gaming equipment into play or displays such controlled
1214 games, electronic gaming devices, or gaming equipment in a casino or gaming establishment or
1215 (2) receives, directly or indirectly, any compensation or reward or any percentage or share of the
1216 revenue, for keeping, running, or carrying on any controlled game, or owning the real property or
1217 location in which any controlled game occurs, shall be punished by imprisonment in a house of
1218 correction for not more than 2 and one-half years, or a fine of not more than $25,000, or both,
1219 and in the case of a person other than a natural person, the amount of a fine may be up to
1220 $100,000.

1221 (3) any person who conducts or operates any controlled game, electronic gaming device,
1222 or gaming equipment after his license has expired and prior to the actual renewal thereof shall be
1223 punished by imprisonment in a house of correction for not more than 1 and one-half years, or a
1224 fine of not more than $25,000, or both, and in the case of a person other than a natural person,
1225 the amount of a fine may be up to $100,000.

1226 (c) Swindling and cheating.

1227 (1) In addition to the provisions of section 75 of chapter 266, a person is guilty of
1228 swindling and cheating if the person purposely or knowingly by any trick or sleight of hand
1229 performance or by a fraud or fraudulent scheme, cards, dice, or other gaming equipment, for
1230 himself or for another, wins or attempts to win money or property, or a representative of either,
1231 or reduces a losing wager or attempts to reduce a losing wager in connection to controlled
1232 gaming.

1233 The penalties for swindling and cheating offenses shall be as follows:

1234 (i) any person who swindles or cheats where the amount involved is $75,000 or more
1235 shall be punished by imprisonment in state prison for not more than 10 years, or a fine of not
1236 more than $1,000,000, or both.

1237 (ii) any person who swindles or cheats where the amount involved is $10,000 or more
1238 and less than $75,000 shall be punished by imprisonment in state prison for not more than 5
1239 years, or a fine of not more than $500,000, or both.

1240 (iii) any person who swindles or cheats where the amount involved is $1,000 or more and
1241 less than $10,000 shall be punished by imprisonment in state prison for not more than 3 years or
1242 imprisonment in a house of correction for not more than 2 and one-half years, or a fine of not
1243 more than $100,000, or both such fine and imprisonment.

1244 (iv) any person who swindles or cheats where the amount involved is less than $1,000
1245 shall be punished by imprisonment in a house of correction for not more than 2 and one-half
1246 years, or by a fine of not more than $10,000, or both.

1247 (d) Each episode or transaction of swindling or cheating may be the subject of a separate
1248 prosecution and conviction. In the discretion of the prosecutor, multiple episodes or transactions
1249 of swindling and cheating committed as part of a single scheme or course of conduct may be
1250 treated as a single offense, and the amounts involved in acts of swindling and cheating
1251 committed pursuant to a scheme or course of conduct, whether by the same person or several
1252 persons, may be aggregated in determining the amount involved in the offense.

1253 (e) Unlawful use or possession of devices to obtain an advantage.

1254 (1) Any person who in playing, conducting or operating a game in a licensed casino or
1255 gaming establishment, uses or assists another in the use of (1) a computerized, electronic,
1256 electrical, or mechanical device, which is designed, constructed, or programmed specifically for
1257 use in obtaining an advantage in any game in a licensed casino or gaming establishment or (2)
1258 any other cheating or thieving device, including, but not limited to, bogus or counterfeit chips,
1259 coins or dice; coins or tokens attached to strings or wires; marked cards; electronic or magnetic
1260 devices; or tools, drills, wires, keys, or devices designed for the purpose of and suitable for
1261 opening, entering, or affecting the operation of any gaming equipment, or for removing money
1262 or other contents therefrom, shall be punished by imprisonment in state prison for not more than
1263 5 years or imprisonment in a house of correction for not more than 2 and one-half years, or a fine
1264 of not more than $25,000, or both such fine and imprisonment.

1265 (2) Any person who possesses any computerized, electronic, electrical, or mechanical
1266 device or other cheating or thieving device described in subsection (1) with the intent to defraud,
1267 cheat, or swindle shall be punished by imprisonment in a house of correction for not more than 2
1268 and one-half years, or a fine of not more than $10,000, or both. Possession of any computerized,
1269 electronic, electrical, or mechanical device or other cheating or thieving device described in
1270 subsection (1) within a casino or gaming establishment shall constitute prima facie evidence of
1271 an intent to defraud, cheat or swindle, except that possession by any licensee, or employee of a
1272 licensee, acting in furtherance of his employment within a licensed casino or gaming
1273 establishment shall not constitute such prima facie evidence.

1274 (3) Any cheating or thieving device used or possessed in violation of this section shall be
1275 subject to seizure and forfeiture by the division.

1276 (f) Unlawful operation of cheating games and devices by a licensee or employee;
1277 penalties.

1278 (1) It shall be unlawful for any licensee or employee to:

1279 (i) knowingly conduct or operate, or allow to be conducted or operated, any cheating or
1280 thieving game or device; or

1281 (ii) knowingly conduct or operate or expose for play any game or games played with
1282 cards, dice, or any electronic or mechanical device, or any combination of games or devices,
1283 which have in any manner been marked or tampered with, or placed in a condition, or operated
1284 in a manner, the result of which tends to deceive the public or tends to alter the normal random
1285 selection of characteristics or the normal chance of the game or to alter the result of the game.

1286 (2) Any person who violates this section shall be punished by imprisonment in state
1287 prison for not more than 5 years or imprisonment in a house of correction for not more than 2
1288 and one-half years, or a fine of not more than $25,000, or both such fine and imprisonment, and
1289 in the case of a person other than a natural person, the amount of a fine may be up to $100,000.

1290 (3) Any cheating or thieving game or device used in violation of this section shall be
1291 subject to seizure and forfeiture by the division.

1292 (g) Unlawful manufacture, distribution, sale, or service of gaming equipment; penalties.

1293 (1) Any person who manufactures, distributes, sells, or services any gaming equipment in
1294 violation of the provisions of this chapter or the regulations adopted by the authority for the
1295 purposes of defrauding, cheating, or swindling any person playing, operating, or conducting a
1296 controlled game at a casino or gaming establishment shall be punished by imprisonment in state
1297 prison for not more than 5 years or imprisonment in a house of correction for not more than 2
1298 and one-half years, or a fine of not more than $25,000, or both such fine and imprisonment.

1299 (2) Any such unlawfully manufactured, distributed, sold, or serviced gaming equipment
1300 shall be subject to seizure and forfeiture by the division.

1301 (h) Employment without license or registration; penalties.

1302 (1) Any person who, without obtaining the requisite license or registration as provided in
1303 this chapter, works or is employed in a position whose duties would require licensing or
1304 registration under the provisions of this chapter shall be punished by imprisonment in a house of
1305 correction for not more than 6 months, or a fine of not more than $10,000, or both.

1306 (2) Any person who employs or continues to employ an individual not duly licensed or
1307 registered under the provisions of this chapter in a position whose duties require a license or
1308 registration under the provisions of this chapter shall be punished by imprisonment in a house of
1309 correction for not more than 6 months, or a fine of not more than $10,000, or both, and in the
1310 case of a person other than a natural person, the amount of a fine may be up to $100,000.

1311 (i) Gaming by certain persons prohibited; penalties.

1312 (1) Any person under the age of 21 who plays, places wagers at, or collects winnings
1313 from, whether personally or through an agent, any co0ntrolled game shall be punished by

1314 imprisonment in a house of correction for not more than 6 months, or a fine of not more than
1315 $1,000, or both.

1316 (2) Any licensee or employee who knowingly allows a person under the age of 21 to
1317 play, place wagers at, or collect winnings, whether personally or through an agent, shall be
1318 punished by imprisonment in a house of correction for not more than 1 year, or a fine of not
1319 more than $10,000, or both, and in the case of a person other than a natural person, the amount of
1320 a fine may be up to $500,000. A subsequent violation of this section shall subject the licensee or
1321 employee to imprisonment in a house of correction for not more than 2 years, or a fine of not
1322 more than $50,000, or both, and in the case of a person other than a natural person, the amount of
1323 a fine may be up to $1,000,000.

1324 (j) Placing, sending, transmitting, relaying wagers to another person prohibited under
1325 certain circumstances; penalties.

1326 Any person who, except in accordance with section 5C of chapter 128A, knowingly
1327 transmits or receives a wager of any type by any telecommunication device, including telephone,
1328 cellular phone, Internet, local area network, including wireless local networks, or any other
1329 similar device or equipment or other medium of communication, or knowingly installs or
1330 maintains said device or equipment for the transmission or receipt of wagering information shall
1331 be punished by imprisonment in a house of correction for not more than 2 years, or a fine of not
1332 more than $25,000, or both.

1333 This section shall apply to any person who, from within this commonwealth, transmits a
1334 wager to, or receives a wager from, another person or gaming establishment within or outside of
1335 this commonwealth and any person who, from outside this commonwealth, transmits a wager to,
1336 or receives a wager from, another person or gaming establishment within this commonwealth.

1337 This section shall not apply to the use of a local area network as a means to place
1338 authorized wagers in a licensed gaming establishment, or use of said devices or equipment by the
1339 authority in it duties in regulating, enforcing, or auditing a licensed gaming operator.

1340 (k) Post employment restrictions; penalties.

1341 Any person who knowingly violates any of the provisions contained in subsection (a) or
1342 subsection (c) of section 4 shall be punished by imprisonment in state prison for not more than 5
1343 years or in a house of correction for not more than 2 and one-half years, or a fine of not more
1344 than $100,000, or both.

1345 Section 20. Withholdings from Winnings for Child Support and Tax Payments

1346 Prior to disbursement of gambling winnings in excess of $600, all licensed casinos shall
1347 review information furnished by the IV-D agency, as set forth in chapter 119A, and the
1348 department of revenue to ascertain whether the individual collecting such winnings owes past-

1349 due child support to the commonwealth or to an individual to whom the IV-D agency is
1350 providing services, and to ascertain whether the individual owes any past-due tax liability to the
1351 commonwealth. If the individual owes past-due child support or a past-due tax liability, after
1352 withholding state and federal taxes pursuant to this section, the casino shall first disburse to the
1353 IV-D agency the full amount of the winnings or such portion of the winnings that satisfies the
1354 individual's past-due child support obligation and, if funds remain available after that
1355 disbursement, the casino shall disburse to the department of revenue the full amount of the
1356 winnings or such portion of the winnings that satisfies the individual's past-due tax liability, and
1357 the casino shall notify the IV-D agency or the department of revenue, respectively, of the
1358 individual's name, address, and social security number. The casino shall disburse to the
1359 individual only that portion of the winnings, if any, remaining after the individual's past-due
1360 child support obligation and the individual's past-due tax liability have been satisfied.

1361 Section 21. Other Tax Benefits Unavailable to Resort Casinos

1362 A casino or business located on casino property cannot be a certified project within the
1363 meaning of section 3F of chapter 23 A. Resort casinos may not be designated an economic
1364 opportunity area within the meaning of section 3E of chapter 23 A. Resort casinos are not
1365 eligible for tax increment financing as set forth in section 59 of chapter 40 or special tax
1366 assessments set forth in section 3E of chapter 23 A. Resort casinos may not be classified and
1367 taxed as recreational land under the provisions of chapter 61B. Resort casinos may not be
1368 designated as a development district within the meaning of chapter 40Q. Unless otherwise
1369 provided, a resort casino or any business located or to be located within a resort casino is not
1370 eligible for the following credits or deductions listed in chapter 62 or chapter 63: the investment
1371 tax credit under section 31A of chapter 63, the employment credit under section 31C of chapter
1372 63, the van pool credit under section 31E of chapter 63, the deduction for expenditures for
1373 industrial waste treatment or air pollution control under section 38D of chapter 63, the deduction
1374 for compensation paid to an eligible business facility's employees domiciled in a section of
1375 substantial poverty under section 38F of chapter 63, the alternative energy sources deduction
1376 under section 38H of chapter 63, the research expense credit under section 38M of chapter 63,
1377 the economic opportunity area credit under section 6(g) of chapter 62, and section 38N of
1378 chapter 63, the abandoned building deduction under section 3B(a)(10) of chapter 62, and section
1379 380 of chapter 63, the harbor maintenance tax credit under section 38P of chapter 63, the
1380 brownfields credit under section 6(j) of chapter 62, and section 38Q of chapter 63, the historic
1381 rehabilitation tax credit under section 6J of chapter 62 and section 38R of chapter 63, the
1382 automatic sprinkler system depreciation deduction under section 38S of chapter 63, and the
1383 credit for a solar water heating system under section 38T of chapter 63.

1384 Section 22. Economic Assistance to Racing Licensees Not Obtaining Licenses

1385 Notwithstanding any general or special law to the contrary, any race track licensed in
1386 accordance with section 3 of chapter 128A that is not selected for a casino license under this Act

1387 and that is no longer conducting racing meetings in accordance with chapter 128A or accepting
1388 paramutuel wagers in accordance with chapter 128C, shall automatically be:

1389 (a) designated as an economic opportunity area within the meaning of section 3E of
1390 chapter 23A,

1391 (b) eligible for infrastructure financing for the purpose of stimulating economic
1392 development pursuant to:

1393 (i) the Public Works Economic Development (PWED) Program, as regulated by
1394 7.01 CMR 5.00 et seq.;

1395 (ii) the Infrastructure Investment Incentive (I-Cubed) program, as established by
1396 St. 2006, c. 293 §§ 5 - 12, as amended by St. 2008, c. 129; and

1397 (c) granted a property tax exemption of up to 100% of the tax increment, as authorized by
1398 section 59 of chapter 40, for any added value of new construction, rehabilitation or new
1399 equipment or machinery.

1400 Employees displaced by the termination of racing meetings at any such race track will
1401 receive reasonable priority job placement opportunities at any resort casino licensed under this
1402 Act during the two years immediately following said termination, and shall automatically be
1403 eligible for all state job training and education programs.

1404 The host municipality of said site, and if two or more municipalities host said site, then
1405 all such host municipalities, shall automatically:

1406 (a) qualify for a grant of not less than $1,000,000, pursuant to the Community
1407 Development Action Grant (CDAG) program, to support activities including but not limited to
1408 workforce housing development, streetscape upgrades, publicly-owned infrastructure
1409 rehabilitation and construction, and local utility improvements; and

1410 (b) receive certification from the State Economic Assistance Coordinating Council to
1411 utilize tax increment District Improvement Financing (DIF), as authorized by chapter 40Q, for
1412 activities including but not limited to acquiring land, reconstructing improvements, and incurring
1413 indebtedness to finance development projects.

1414 SECTION 7. Subsection (d)(1) of section 2 of chapter 62, as appearing in the 2006
1415 Official Edition, is hereby amended by inserting after paragraph (P) the following paragraph:-

1416 (Q) Any deduction for losses from wagering transactions allowed by section 165 of the
1417 Code.

1418 SECTION 8. Subsection (k) of section 6 of chapter 62, as appearing in the 2006 Official
1419 Edition, is hereby amended by inserting after subsection (9) the following subsection :-

1420 (10) A person who is otherwise eligible to claim the credit under subsection (m) of this
1421 section may elect the credit available under this subsection or under subsection (m), but not both.