



# A Dickey Future for Illinois Gaming

By Michael A. Ficaró and Kristopher J. Stark

**R**iverboat gambling in Illinois first enjoyed its heyday in the 1840s when more than two thousand gamblers operated usually honest and skillful games on the Mississippi River. Gambling on the steamboats flourished during the 1850s despite the emergence of dishonest gamers trying to win big stakes the easy way. Because the Mississippi River became a battleground between Union and Confederate forces during the Civil War, passenger steamboats ceased operation causing the disruption of riverboat gambling. Wary of professional gamblers and economic conditions, states on both sides of the river eventually passed laws prohibiting riverboat gambling, so that by World War I, gambling on riverboats had ceased to exist.

Realizing the substantial profits from legalized gambling in the United States, the State of Iowa enacted the Iowa Excursion Boat Gambling Act in 1989, providing for the licensing and regulating of excursion boats on the Mississippi and Iowa waterways.

In 1990, oddsmakers were shocked when, in response to Iowa,

the Illinois legislature narrowly passed the Riverboat Gambling Act, thrusting Illinois into the gaming arena by authorizing ten riverboat gaming operations.

For almost two decades, no expansion of riverboat gaming licenses in Illinois had passed despite constant attempts in each and every legislative session. Every Governor, including the two currently incarcerated in federal prison, held the cards in this game because they had veto power over any new legislation, and each Governor was strenuously opposed to any land based gambling facility in Chicago.

Now, the forecast for the Illinois gaming industry in 2012 and 2013 is uncertain. Newly passed riverboat gambling and video gaming legislation clearly demonstrates that the Illinois legislature has chosen to go “all in” for gambling expansion, but the reality of Illinois politics has stymied the implementation of that expansion. Video gaming which passed in June of 2009 has yet to license a single location and, according to Gaming Board sources, it appears video gaming will not take action until the first quarter of 2013.

Therefore, it will be at least another twelve months before revenue is generated for the state, municipalities, or the gaming manufacturers or operators. Legislation providing for a Chicago casino and four additional statewide casinos passed the legislature in May 2011 but has intentionally not reached Governor Quinn’s desk for signature. Wrangling among the Governor’s office and the legislative leaders as to whether the passed expansion should include slots at racetracks, whether an increase in gaming positions from 1,200 to 2,000 at casinos is too much expansion, or whether Chicago should control its own 4,000 position casino are some of the major points of contention. Governor Quinn, however, has recently committed to work with legislative leaders to pass a gambling expansion bill which will include additional riverboat casinos, additional gaming positions and a Chicago casino.

Meanwhile, the \$31 billion in video gaming revenue designated for capital projects, the jobs that would be created from that revenue and the billions from riverboat expansion is lost. In light of the fact that Illinois

currently has an annual budget deficit of over \$16 billion and that payments to state vendors are currently in arrears by \$8.5 billion, the impact of this impasse is profound.

Over the last decade, the Midwest region of the United States has become one of the top areas for gaming. According to the 2011 American Gaming Association State of the States Report, the Chicagoland area is the third largest casino market in the country, trailing only Las Vegas and Atlantic City. The American Gaming Association also reports that Illinois was the seventh highest commercial casino tax revenue producing state in the nation in 2010, down from its 2009 ranking of fifth and its 2007 ranking of third. The four Indiana riverboats closest to Chicago make up 61.7% of all gaming positions in that region. Now that the newly opened Des Plaines Rivers Casino in Illinois positions are included, Indiana's portion of the Lake Michigan 1,200 positions drops to 61.9%. But even with this new Illinois casino, the majority of the gaming positions remain in Indiana despite the fact that the majority of the population is in Illinois.

Several factors have contributed to the dramatic slide in Illinois' riverboat figures over the last four fiscal years including: a struggling economy, a reduction in discretionary spending, increased competition from other states and the effects of the graduated tax structure. However, the numbers continue to suggest that the biggest contributor to the drop in Illinois casino revenues is the indoor smoking ban.

According to the *Wagering in Illinois* 2011 report, since the indoor smoking ban began in January 2008, adjusted gross receipts for Illinois riverboats have fallen a combined 30.7% from pre-smoking ban levels.

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Specifically, adjusted gross revenue (AGR) for the Chicago area riverboats in Illinois has dropped 35.5% since the indoor smoking ban began. In contrast, the receipts for Indiana's four closest riverboats in the Chicago area that have no smoking ban increased slightly at 0.6%. Similarly, Illinois' AGR figures are down 33.8%.

Currently, Illinois riverboat revenues are on a staggering downward trend. The 2011 tax amount of \$324 million was the lowest amount since 1999. The adjusted gross receipts of Illinois riverboats fell a combined 3.85% in 2011 and marked the fourth consecutive fiscal year of decline. The amount, \$1.351 billion in 2011, is 31% below the amount collected in 2007. Clearly, admission and receipt totals at Illinois' riverboats have suffered.

Meanwhile, the competition for the gaming dollar in the Midwest continues to grow. The development of new casinos in the St. Louis area bordering Illinois has already come to fruition. Indiana has continued to increase gaming revenues by adding casinos, racinos and increased gaming positions. Unlike Illinois, which limits the number of gaming positions to 1,200, Indiana has no limitation. Indiana's Hammond Horseshoe boasts of having over 3,400 gaming positions just twenty minutes from downtown Chicago.

Illinois is the lowest AGR producing state in the Midwest. Illinois' 2011 AGR total of \$1.351 billion is now lower than Indiana (\$2.772 billion), Missouri (\$1.806 billion), and for the first time, Iowa (\$1.375 billion). Just four years ago in 2007, Illinois' adjusted gross receipts total was \$638 million higher than Iowa and \$358 million higher than Missouri. In 2011, Illinois trailed Iowa by \$24 million and Missouri by \$455 million. In this same time period, the gap between Illinois and Indiana in AGR has grown from \$684 million to \$1.421 billion. Indiana's AGR totals in 2011 more than doubled that of Illinois. All of these totals are despite the fact that Illinois has a decisive advantage over these states in population and per capital income.

According to the 2011 Illinois Commission on Government Forecasting and Accounting, when combining all of the gambling-related sources of income in Illinois, casino, horse racing, lottery and charitable gaming, revenues fell 2.5% in 2011 to \$1.021 billion. This is the lowest combined total for these revenue sources since 2001 and marks the fifth consecutive fiscal year that overall gaming revenues have declined. Lottery gets the biggest revenue play in Illinois, and a recent Justice Department ruling allowing intrastate internet lottery sales, along with operation of the lottery by a private manager will continue to grow lottery revenue.

In July 2011, additional riverboat revenues finally began coming in to casino gaming again from the re-opening of the tenth riverboat license with the Rivers Casino in Des Plaines. So far, the Rivers Casino revenue numbers have been extraordinary. According to the Illinois Gaming Board's Monthly Revenue Report, the December AGR

was over \$33 million with electronic gaming device win per day in excess of \$900, almost twice that of Illinois' second best casino in Elgin. Moreover, 414,257 gaming patrons visited the casino in August – far surpassing the second most visited property, Grand Victoria in Elgin, at 140,039. The cannibalizing impact that this casino will have of the other four Illinois riverboats in the Chicago area, as well as the nearby Indiana casinos Indiana, is being closely watched.

With the 2009 enactment of the Video Gaming Act (VGA), video poker devices became legal in bars, restaurants and truck stops across the state, as well as facilities operated by fraternal and veteran organizations. Establishments where liquor is sold may operate devices only during hours when liquor can be legally sold. Truck stops may operate devices at any time. Each licensed location is capable of having five devices. Video poker, blackjack and line games are legal.

Video Gaming revenues were earmarked for the capital projects fund to pay for \$31 billion of projects across Illinois and to provide thousands of union construction jobs. Due to complications from litigation challenging the statute and a misstep by the Illinois Gaming Board (IGB) in selecting a company to develop a central communications system, video gaming, this latest form of legalized gambling, has yet to begin in Illinois. Because of the time it takes to investigate and process the thousands of video gam-

ing applicants, it appears that video gaming will not commence in Illinois until 2013 at the earliest. Additionally, since video gaming was legalized in Illinois, a number of local governments have voted to ban video gaming in their areas. The City of Chicago, due to a pre-existing law, must “opt-in” in order to offer video gaming, which the City has yet to do.

The IGB enjoys its reputation as the toughest regulator in the world of gaming. In the past, the IGB members and staff have demonstrated a willingness to drill down farther than any other gaming jurisdiction on its license applicants. Added staff and resources have enhanced that reputation. The due diligence of IGB staff has resulted in video gaming licensing investigations taking longer than applicants and investors anticipated.

In addition, the VGA has added additional suitability criteria for the IGB to consider in licensing. In its January 2012 meeting, Chairman Jaffe reiterated that all VGA licenses are subject to examination for: their background, including criminal record, reputation, habits, social or business associations, or prior activities that pose a threat to the public interests of the state or to the security and integrity of video gaming. Additionally, applicants for license must not create or enhance the dangers of

unsuitable, unfair, or illegal practices, methods and activities in the conduct of video gaming nor present questionable business practices and finan-

cial arrangements incidental to the conduct of video gaming activities

In light of Illinois regulatory history, the thoroughness of staff, plus the fact that the IGB acknowledged its awareness that illegal video devices have been operating throughout Illinois for years, there is no doubt that additional scrutiny will take place for all video gaming license applicants.

Consequently, in twenty-nine months since the passing of the VGA, only sixteen of thirty-one manufacturer, distributor and supplier applicants have been granted licensing. Only sixteen of 101 terminal operators have been licensed. No applications for locations among the potential 15,000 bars, restaurants and approved facilities have even been issued. In January, IGB Administrator Mark Ostrowski announced that the staff has over 1,500 active investigations pending for VGA licensing. Compounding the difficulty of the massive amount of regulatory scrutiny remaining, four out of the five IGB members are new.

All this spells uncertainty for Illinois gambling revenue enhancement. The future of Illinois as a gaming market leader again is dicey. ♣

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