

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2014 Legislative Session

Bill No. CB-7-2014

Chapter No. 6

Proposed and Presented by Council Members Franklin, Campos, Davis and Toles

Introduced by Council Members Franklin, Campos, Davis and Toles

Co-Sponsors _____

Date of Introduction April 8, 2014

BILL

1 AN ACT concerning

2 Video Lottery Facility Economic Opportunities

3 For the purpose of requiring compliance with local business, local minority business, and local
4 hiring requirements in a development agreement negotiated by the County Executive and a video
5 lottery operator, subject to the approval of the same by County Council resolution, as a condition
6 of the use of a video lottery facility.

7 BY adding:

8 SUBTITLE 10. FINANCE AND TAXATION.

9 Sections 10-308 and 10-309,

10 The Prince George's County Code

11 (2011 Edition; 2013 Supplement).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
13 Maryland, that Sections 10-308 and 10-309 of the Prince George's County Code be and the same
14 are hereby added:

15 SUBTITLE 10. FINANCE AND TAXATION.

16 **DIVISION 22. VIDEO LOTTERY FACILITY LOCAL BUSINESS AND HIRING**
17 **REQUIREMENTS.**

18 **Sec. 10-308. Definitions.**

19 In this Division, the following definitions have the following meanings:

20 (a) "Best efforts" has the meaning set forth in the development agreement.

(b) "Compliance with the development agreement" in this Division means a video lottery operator is not in breach of the development agreement.

(c) "County based business" means a business whose principal place of operation, as determined by the Office of Central Services, is in Prince George's County, MD.

(d) "County based business participation" means the percentage of the video lottery facility's total purchase value paid to County based businesses, including such dollars paid to subcontractors. "Total purchase value" shall have the meaning set forth in the development agreement.

(e) "County based minority business" means a business enterprise that both
(1) is a County based business; and
(2) has a valid minority business certification recognized by the Office of Central Services.

(f) "County based minority business participation" means the percentage of the video lottery facility's total purchase value paid to County based minority businesses, including such dollars paid to subcontractors. "Total purchase value" shall have the meaning set forth in the development agreement.

(g) "County resident" has the meaning set forth in Section 10A-101 of the Code.

(h) "Development agreement" in this Division means an executed, written agreement between the County and a video lottery operator, negotiated by the County Executive or the County Executive's designee and the video lottery operator, approved by resolution of the County Council.

(i) "Procure" means to buy, rent, lease, lease-purchase, or otherwise obtain any supplies, services, or construction. "Procurement" is the noun or adjective form of this term.

(j) "Table games" as set forth in Section 9-1A-01(w-2), State Government Article, Annotated Code of Maryland, means:

(1) roulette, baccarat, blackjack, craps, big six wheel, minibaccarat, poker, pai gow poker, and sic bo, or any variation and composites of such games; and

(2) gaming tournaments in which players compete against one another in one or more of the games authorized under State Law.

(k) "Video lottery facility" means a facility being constructed and then being operated for players to play video lottery terminals and/or table games. For the purposes of this Division, "video lottery facility" also includes any Recreational or Entertainment Establishment of a

1 Commercial Nature, as defined in Section 27-107.01(192) of the Code, which includes a video
 2 lottery facility. Video lottery facility shall also mean a facility as set forth in Sections 9-1A-
 3 01(aa), 9-1A-01(w-2), and 9-1A-04(a)(11), State Government Article, Annotated Code of
 4 Maryland.

5 (l) "Video lottery operation license" as set forth in Sections 9-1A-01(bb) and 9-1A-
 6 04(a)(11), State Government Article, Annotated Code of Maryland, means a license awarded by
 7 the Video Lottery Facility Location Commission and issued by the State Lottery and Gaming
 8 Control Commission to a person or entity that allows players to operate video lottery terminals
 9 and/or table games.

10 (m) "Video lottery operator" means a person or entity

11 (1) awarded a video lottery operation license; or

12 (2) issued a video lottery operation license.

13 Video lottery operator shall also mean an operator as set forth in Section 9-1A-01(cc), State
 14 Government Article, Annotated Code of Maryland.

15 (n) "Video lottery terminal" as set forth in Section 9-1A-01(dd), State Government Article,
 16 Annotated Code of Maryland, means:

17 (1) a machine or other device, that, on insertion of a bill, coin, token, voucher, ticket,
 18 coupon, or similar item, or on payment of any consideration:

19 (i) is available to play or simulate the play of any game of chance in which the results,
 20 including the options available to the player, are randomly determined by the machine or other
 21 device; and

22 (ii) by the element of chance, may deliver or entitle the player who operates the
 23 machine or device to receive cash, premiums, merchandise, tokens, or anything of value, whether
 24 the payout is made automatically from the device or in any other manner.

25 (2) "Video lottery terminal" includes a machine or device:

26 (i) that does not directly dispense money, tokens, or anything of value to winning
 27 players; and

28 (ii) described under paragraph (1) of this subsection that uses an electronic credit
 29 system making the deposit of bills, coins, or tokens unnecessary.

30 (3) "Video lottery terminal" does not include an authorized slot machine operated by an
 31 eligible organization under Title 12, Subtitle 3 of the Criminal Law Article, Annotated Code of
 32 Maryland.

1 **Sec. 10-309. Video Lottery Facility Economic Opportunities.**

2 (a) Pursuant to authority set forth in Section 9-1A-10(a)(3), State Government Article,
3 Annotated Code of Maryland, a video lottery operator shall comply with the following
4 requirements:

5 (1) In the construction and operation of any video lottery facility located in the County, a
6 video lottery operator shall use best efforts to meet or exceed annual percentages of county based
7 business participation set forth in a development agreement negotiated between the video lottery
8 operator and the County Executive or the County Executive's designee, subject to approval of
9 the development agreement by resolution of the County Council.

10 (2) In the construction and operation of any video lottery facility located in the County, a
11 video lottery operator shall use best efforts to meet or exceed annual percentage goal(s) for
12 county based minority business participation set forth in a development agreement negotiated
13 between the video lottery operator and the County Executive or the County Executive's
14 designee, subject to approval of the development agreement by resolution of the County Council.

15 (3) In the construction and operation of any video lottery facility located in the County, a
16 video lottery operator shall use best efforts to meet or exceed annual percentage requirements for
17 the employment of County residents set forth in a development agreement negotiated between
18 the video lottery operator and the County Executive or the County Executive's designee, subject
19 to approval of the development agreement by resolution of the County Council.

20 (b) Video Lottery Facility Compliance and Reporting Plan.

21 Any development agreement authorized by this Division shall include a Video Lottery
22 Facility Compliance and Reporting Plan to facilitate and ensure satisfaction of the requirements
23 of the agreement. A Video Lottery Facility Compliance and Reporting Plan shall include, but
24 not be limited to including, reasonable procurement and employment reporting requirements,
25 standards and procedures for determining best efforts, employment training and preparation
26 efforts, local business capacity building, enforcement provisions, and community outreach
27 components to be complied with by the video lottery operator on an ongoing basis.

28 (c) Any development agreement authorized by this Division shall include a statement
29 detailing any opportunities in relation to the video lottery facility to be made available to Prince
30 George's County residents or businesses via direct monetary or other equity investment,
31 ownership of independent in-line businesses, ownership of retail pad sites, ownership of business
32 franchises, ownership of service businesses, and/or ownership of any other for-profit businesses.

1 (d) Approval of a development agreement by resolution of the County Council under this
 2 Division shall occur prior to the issuance of any use and occupancy permits for the video lottery
 3 facility and compliance with the development agreement shall be a stated condition of approval
 4 for any use and occupancy permits for the video lottery facility. A development agreement
 5 authorized by this Division may be adjusted by mutual consent of the video lottery operator and
 6 the County Executive or County Executive's designee, subject to approval of any such
 7 adjustment by County Council resolution.

8 (e) Regardless of the timing of approval of the development agreement, the requirements of
 9 subsections (a)(1)-(a)(3) of this Section shall apply to the entire construction and operation
 10 phases of the video lottery facility, from commencement to completion.

11 SECTION 2. BE IT FURTHER ENACTED that within six (6) months after the first building
 12 permit is issued to the video lottery operator and semi-annually thereafter, the video lottery
 13 operator shall prepare and submit a report to the County Council and Compliance Manager
 14 detailing the video lottery operator's performance in fulfilling the requirements of the Video
 15 Lottery Facility Compliance and Reporting Plan, specifically the utilization of county based
 16 business participation, county based minority business participation, and the employment of
 17 County residents as it relates to the construction phase of any video lottery facility located in the
 18 County until the construction is completed. Beginning on July 1, 2017 and annually thereafter,
 19 the video lottery operator shall be responsible for providing an annual briefing to the County
 20 Council and Compliance Manager detailing the video lottery operator's performance in fulfilling
 21 the requirements of the Video Lottery Facility Compliance and Reporting Plan, specifically the
 22 utilization of county based business participation, county based minority business participation,
 23 and the employment of County residents as it relates to the operation phase of any video lottery
 24 facility located in the County.

25 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby
 26 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
 27 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
 28 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
 29 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
 30 Act, since the same would have been enacted without the incorporation in this Act of any such
 31 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

1 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
2 calendar days after it becomes law.

Adopted this 6th day of May, 2014.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: 

Mel Franklin
Chairman

ATTEST:


Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: 5-28-2014

BY: 

Rushern L. Baker, III
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.

Prince George's County Council Agenda Item Summary

Meeting Date: 5/6/2014
Reference No.: CB-007-2014
Draft No.: 4
Proposer(s): Franklin, Campos, Davis, Toles
Sponsor(s): Franklin, Campos, Davis, Toles
Item Title: An Act concerning Video Lottery Facility Economic Opportunities for the purpose of requiring compliance with local business, local minority business, and local hiring requirements in a development agreement negotiated by the County Executive and a video lottery operator, subject to the approval of the same by County Council resolution, as a condition of the use of a video lottery facility.

Drafter: Legislative Officers
Resource Personnel: Brendon L. Laster, Legislative Aide District 9

LEGISLATIVE HISTORY:

Date Presented:	3/11/2014	Executive Action:	5/28/2014 S
Committee Referral:	3/11/2014 - PSFM	Effective Date:	7/14/2014

Committee Action: 4/3/2014 - FAV(A)

Date Introduced: 4/8/2014
Public Hearing: 5/6/2014 - 10:00 AM

Council Action (1) 5/6/2014 - TABLED
Council Votes: WC:N, DLD:N, MRF:N, AH:A, ML:A, EO:A, OP:A, IT:N, KT:N
Pass/Fail: F
Council Action (2) 5/6/2014 - ENACTED
Council Votes: WC:A, DLD:A, MRF:A, AH:N, ML:N, EO:N, OP:N, IT:A, KT:A
Pass/Fail: P
Remarks:

AFFECTED CODE SECTIONS:

10-308, 10-309

COMMITTEE REPORTS:

Public Safety and Fiscal Management

Date 4/3/2014

REPORT Committee Vote: Favorable as Amended 3-1 (In Favor: Council Members Toles, Davis, and Turner; Opposed: Council Member Lehman)

This bill will require compliance with local business, local minority business, and local hiring requirements in a development agreement negotiated between the video lottery facility licensee and the County Executive, subject to approval by the County Council. The development agreement shall include a Video Lottery Facility Compliance and Reporting Plan. Staff gave an overview of the legislation which requires the approval of a development agreement by resolution of the Council prior to the issuance of any building permits for the video lottery facility and compliance with the development agreement shall be a stated condition of approval for any building or use and occupancy

permits for the video lottery facility. The Committee discussed the proposed Draft 2 which clarified definitions. There was discussion on proposed language to include a local minority business or individual equity ownership opportunity clause in the bill. Arthur Horne, MGM representative, stated that he supports the concept of the bill but has concerns about building permits not being issued if there is noncompliance with the development agreement. Mr. Horne stated that this could be problematic as to the timing of the casino opening. The bill was held on March 20, 2014 for further discussion and to work on additional amendments.

The Committee convened on March 27, 2014 to discuss proposed Draft 2B of CB-7-2014. The draft made additional revisions to clarify definitions and added language to require the development agreement to include a statement detailing any equity investment opportunities. MGM representatives Arthur Horne and Lorenzo Creighton stated their concerns with timing and possible delay on the project and the equity participation language. Other speakers were James R. Estep, Board Member, Greater Prince George's Business Roundtable; Mike Little; Mark Coles, representative of the Washington DC Building and Trades Council; and Mayor Jacqueline Goodall, Town of Forest Heights. A letter was submitted from Philip M. Andrews, Esq., counsel for MGM, stating his concerns with the bill and requesting the bill be withdrawn or, in the event withdrawal does not occur, revisions to the bill. The bill was held for further discussion on proposed amendments.

The Committee met on April 3, 2014, to discuss further amendments to the proposed Draft 2. The amendments incorporated best efforts requirements as it applies to county-based business participation and the employment of County residents. In addition, approval of a development agreement shall occur prior to issuance of any use and occupancy permits and removes building permits as a condition.

During the work session the bill was amended as follows:

- 1) Delete all references to "video lottery facility licensee" and insert "video lottery operator"
- 2) On page 2, delete lines 1-22 and insert new and revised definitions for the following: Best efforts, Compliance with the development agreement, County based business, County based business participation, County based minority business, County based minority business participation, County resident, Development agreement, Procure, Table games, Video lottery facility, Video lottery operation license, Video lottery operator, and Video lottery terminal
- 3) On page 2, line 23 delete "Business and Hiring Requirements" and insert "Economic Opportunities"; on line 28 after "shall" insert "use best efforts to", delete "percentage(s)" and insert "percentages", delete "certified", on line 30 after "Executive" insert "or the County Executive's designee"
- 4) On page 3, line 3 delete "certified", on line 4 after "Executive" insert "or the County Executive's designee", on line 5 after "the" insert "development", on line 7 after "shall" insert "use best efforts to", on line 9 after "Executive" insert "or the County Executive's designee" and after "the" insert "development".
- 5) On page 3, line 17 delete "penalty and"; on line 20 after ("c") insert "Any development agreement authorized by this Division shall include a statement detailing any opportunities in relation to the video lottery facility to be made available to Prince George's County residents or businesses via direct monetary or other equity investment, ownership of independent in-line businesses, ownership of retail pad sites, ownership of business franchises, ownership of service businesses, and/or ownership of any other for-profit businesses." and insert new subsection "(d)"
- 6) On page 3, line 21 after "any" delete "building" and insert "use and occupancy"; on line 23 delete "building or"; on line 25 after "Executive" insert "or County Executive's designee"

The enactment of CB-7-2014 should not have a negative fiscal impact on the County.

BACKGROUND INFORMATION/FISCAL IMPACT:

(Includes reason for proposal, as well as any unique statutory requirements)

The proposed legislation requires compliance with local business, local minority business, and local hiring requirements in a development agreement negotiated between the video lottery facility licensee and the County Executive, subject to approval by the County Council. The development agreement shall include a Video Lottery Facility Compliance and Reporting Plan.

4/8/2014: Prior to introduction, CB-7-2014 (DR-2) was amended as follows:

1. On page 5, line 7, after "SECTION 2" insert "BE IT FURTHER ENACTED that within six (6) months after the first building permit is issued to the video lottery operator and semi-annually thereafter, the video lottery operator shall prepare and submit a report to the County Council and Compliance Manager detailing the video lottery operator's performance in fulfilling the requirements of the Video Lottery Facility Compliance and Reporting Plan, specifically the utilization of county based business participation, county based minority business participation, and the employment of County residents as it relates to the construction phase of any video lottery facility located in the County until the construction is completed. Beginning on July 1, 2017 and annually thereafter, the video lottery operator shall be responsible for providing an annual briefing to the County Council and Compliance Manager detailing the video lottery operator's performance in fulfilling the requirements of the Video Lottery Facility Compliance and Reporting Plan, specifically the utilization of county based business participation, county based minority business participation, and the employment of County residents as it relates to the operation phase of any video lottery facility located in the County." CR-7-2014 (DR-3) was introduced.

5/6/2014: CB-7-2014 (DR-3) was amended on the floor as follows:

1. On page 5, line 6 insert "(c) Regardless of the timing of approval of the development agreement, the requirements of subsections (a)(1)-(a)(3) of this Section shall apply to the entire construction and operation phases of the video lottery facility, from commencement to completion."

2. On page 5, line 28 after "effect" delete "on the date" and insert "forty-five (45) calendar days after".

3. On page 2, lines 30 and 31 delete "as set forth in Sections 9-1A-01(aa), 9-1A-01(w-2), and 9-1A-04(a)(11), State Government Article, Annotated Code of Maryland,";

4. On page 3, line 3 insert "Video lottery facility shall also mean a facility as set forth in Sections 9-1A-01(aa), 9-1A-01(w-2), and 9-1A-04(a)(11), State Government Article, Annotated Code of Maryland."; on lines 9 and 10 delete "as set forth in Section 9-1A-01(cc), State Government Article, Annotated Code of Maryland,"; on line 12 insert "Video lottery operator shall also mean an operator as set forth in Section 9-1A-01(cc), State Government Article, Annotated Code of Maryland."

CB-7-2014 (DR-4) was enacted.

CODE INDEX TOPICS:

INCLUSION FILES:
