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# SENATE BILL No. 289

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-33.

**Synopsis:** Economic development incentive payments. Requires the recipients of incentive payments under a riverboat development agreement to report annually certain information regarding the incentive payments received. Provides that the gaming commission may order an operating agent or person holding an owner's license to withhold incentive payments under certain circumstances. Requires the gaming commission to post the annual reports on an Internet web site.

**Effective:** July 1, 2009.

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January 7, 2009, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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## SENATE BILL No. 289

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-33-2-6.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2009]: **Sec. 6.5. "Development agreement" means an agreement**  
4 **that:**

5 (1) **is between:**

6 (A) **the direct or indirect holder of an owner's license or**  
7 **operating agent contract; and**

8 (B) **either:**

9 (i) **a person; or**

10 (ii) **a unit of local government; and**

11 (2) **sets forth the holder's financial commitments to support**  
12 **economic development in a unit or a geographic region.**

13 SECTION 2. IC 4-33-2-11.7 IS ADDED TO THE INDIANA CODE  
14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
15 1, 2009]: **Sec. 11.7. "Incentive payment" means any payment that**  
16 **a direct or an indirect holder of an owner's license or an operating**  
17 **agent contract is required to make under a development**



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**agreement.**

SECTION 3. IC 4-33-4-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 22.5. For the purpose of:**

**(1) administering, regulating, and enforcing the system of riverboat gambling established under this article; or**

**(2) protecting or enhancing the credibility and integrity of gambling operations authorized by this article;**

**the commission has jurisdiction and supervision over development agreements and incentive payments.**

SECTION 4. IC 4-33-4-23, AS ADDED BY P.L.199-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23. (a) An operating agent or a person holding an owner's license must report annually to the commission the following:**

**(1) The total dollar amounts and recipients of incentive payments made.**

**(2) Any other items related to the payments described in subdivision (1) that the commission may require.**

**(b) The commission shall prescribe, with respect to the report required by subsection (a):**

**(1) the format of the report;**

**(2) the deadline by which the report must be filed; and**

**(3) the manner in which the report must be maintained and filed.**

**(c) Before February 1, a recipient of an incentive payment shall submit to the commission an annual report containing the following information:**

**(1) A verified accounting of all accounts associated with incentive payments received in the preceding calendar year.**

**(2) An itemized list of all disbursements of incentive payments made to any person exceeding five thousand dollars (\$5,000) in the aggregate during the preceding calendar year that includes:**

**(A) the legal name of the recipient;**

**(B) the date of each disbursement;**

**(C) the amount of each disbursement; and**

**(D) the purpose of each disbursement.**

**(d) The commission may order an operating agent or a person holding an owner's license to withhold one (1) or more incentive payments from a recipient if the commission makes a finding at a public hearing that:**

**(1) the report submitted by the recipient under subsection (c) is incomplete or inaccurate;**

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- 1           **(2) the amounts paid to the recipient are not sufficiently**
- 2           **benefiting the economic development of the geographic area**
- 3           **intended; or**
- 4           **(3) payment of the incentive payments adversely affects the**
- 5           **credibility and integrity of the riverboat gambling industry in**
- 6           **Indiana.**

7           **(e) Any amounts withheld from a recipient under subsection**  
 8           **(d)(1) and (d)(2) must be paid to the commission for deposit into an**  
 9           **interest bearing account. The commission may release the withheld**  
 10           **amount and any interest attributable to the withheld amount to the**  
 11           **recipient upon a finding at a public hearing that the recipient's**  
 12           **activities and use of the incentive payments that it receives will**  
 13           **sufficiently benefit the economic development of the geographic**  
 14           **area intended.**

15           **(f) The commission shall post the annual reports submitted**  
 16           **under subsection (c) on an Internet web site, in a location and**  
 17           **format easily accessible to the public.**

18           SECTION 5. IC 4-33-6-7, AS AMENDED BY P.L.234-2007,  
 19           SECTION 302, IS AMENDED TO READ AS FOLLOWS  
 20           [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) In granting a license under  
 21           this chapter, the commission may give favorable consideration to the  
 22           following:

- 23           (1) Economically depressed areas of Indiana.
- 24           (2) Applicants presenting plans that provide for significant
- 25           economic development over a large geographic area.

26           (b) This subsection applies to any owner's license issued for a city  
 27           described in section 1(a)(1) of this chapter. The commission must  
 28           require the applicant to provide assurances that economic development  
 29           will occur in the city and that adequate infrastructure and site  
 30           preparation will be provided to support the riverboat operation. In order  
 31           to prove the assurance that economic development will occur, the  
 32           applicant must:

- 33           (1) construct or provide for the construction of an approved hotel;
- 34           or
- 35           (2) cause economic development that will have an economic
- 36           impact on the city that exceeds the economic impact that the
- 37           construction of an approved hotel would have.

38           (c) This subsection applies to an owner's license issued for the City  
 39           of East Chicago. If a controlling interest in the owner's license is  
 40           transferred, the fiscal body of the City of East Chicago may adopt an  
 41           ordinance voiding any term of the development agreement ~~(as defined~~  
 42           ~~by IC 36-1-8-9.5)~~ between:

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1           (1) the city; and  
2           (2) the person transferring the controlling interest in the owner's  
3           license;  
4           that is in effect as of the date the controlling interest is transferred. The  
5           ordinance may provide for any payments made under the  
6           redevelopment agreement, including those held in escrow, to be  
7           redirected to the City of East Chicago for use as directed by ordinance  
8           of the city fiscal body. A requirement to redirect a payment is valid to  
9           the same extent as if the requirement had been part of the original  
10          agreement. If the ordinance provides for the voiding and renegotiation  
11          of any part of a redevelopment agreement, the mayor of the City of East  
12          Chicago may negotiate with the person acquiring a controlling interest  
13          in the owner's license to replace any terms voided by the ordinance.  
14          Terms negotiated under this subsection must be ratified in an ordinance  
15          adopted by the city legislative body.

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