

INDEX DEPARTMENT

APR 01 2009

IN THE OFFICE OF
SECRETARY OF STATE

SPRINGFIELD, ILLINOIS

EXECUTIVE DEPARTMENT

STEVEN DEN
ILLINOIS

EXECUTIVE ORDER TO TRANSFER THE FUNCTIONS OF THE ILLINOIS RACING BOARD AND THE ILLINOIS GAMING BOARD PROVIDED BY THE DEPARTMENT OF REVENUE TO THE ILLINOIS RACING BOARD AND THE ILLINOIS GAMING BOARD

09-05

Executive Order

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WHEREAS, as Governor of the State of Illinois, it is my duty to ensure accountability and efficiency in the State's operations and provision of services, and to promote independence of the State's agencies when appropriate; and

WHEREAS, Article V, Section 11 of the Illinois Constitution authorizes the Governor to reassign functions or reorganize executive agencies that are directly responsible to him by means of executive order; and

WHEREAS, Section 3.2 of the Executive Reorganization Implementation Act, 15 ILCS 15/3.2, provides that "reorganization" includes (1) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency; (2) the consolidation or coordination of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof; (3) the consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof; (4) the abolition of the whole or any part of any agency which does not have, or upon the taking effect of reorganization will not have, any functions; (5) the establishment of a new agency to perform all or any part of the functions of an existing agency or agencies; and

WHEREAS, the Department of Revenue is an executive agency directly responsible to the Governor which exercises the rights, powers, duties and responsibilities derived from 20 ILCS 2505/2505-1 *et seq.*; and

WHEREAS, the Department of Revenue is responsible for providing certain staffing and support functions to the Illinois Racing Board and the Illinois Gaming Board under 230 ILCS 5/1 *et seq.* and 20 ILCS 2505/2505-1 *et seq.*, and 230 ILCS 10/1 *et seq.*, respectively (the "Functions"); and

WHEREAS, substantial benefits can be achieved by the transfer of the Functions from the Department of Revenue to the Illinois Racing Board and the Illinois Gaming Board, respectively; and

WHEREAS, the transfer of the Functions from the Department of Revenue to the Illinois Racing Board and the Illinois Gaming Board shall not impede, disrupt or impair in any fashion any council, commission, board or other entity previously established.

THEREFORE, pursuant to the powers vested in me by Article V, Section 11 of the Illinois Constitution, I hereby order:

I. TRANSFER OF FUNCTIONS

- A. Effective July 1, 2009, the Functions and all associated powers, duties, rights and responsibilities of the Illinois Racing Board and the Illinois Gaming Board that now are being provided by the Department of Revenue for each of the respective Boards shall be transferred to the Illinois Racing Board and the Illinois Gaming Board, respectively, except that any of the Functions currently being provided by the Administrative & Regulatory Shared Services Center (the "ARSSC") housed in the Department of Revenue will not be transferred and will continue to be provided by the ARSSC. The statutory powers, duties, rights and responsibilities of the Illinois Racing Board and the Illinois

Gaming Board associated with these Functions derive from 230 ILCS 5/1 *et seq.* and 20 ILCS 2505/2505-1 *et seq.*, and 230 ILCS 10/1 *et seq.*, respectively.

- B. The transfer of all Functions and personnel, and the delivery of all books, records, papers, documents, property (real and personal), contracts, and pending business pertaining to the Functions transferred by this Executive Order shall be completed July 1, 2009, or as soon thereafter as is practicable.

II. EFFECT OF TRANSFER

The powers, duties, rights and responsibilities related to the Functions transferred from the Department of Revenue to the Illinois Racing Board and the Illinois Gaming Board, respectively, shall not be affected by this Executive Order, except that they shall all be carried out by the Illinois Racing Board and the Illinois Gaming Board, respectively, from the effective date of the transfers.

- A. The staff of the Department of Revenue engaged in the performance of the Functions shall be transferred to the Illinois Racing Board and the Illinois Gaming Board, respectively, except that no ARSSC staff will be transferred to either Board as a result of this Executive Order. The status and rights of such employees, so transferred, under the Personnel Code shall not be affected by the transfers. The rights of the employees, the State of Illinois and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement or annuity plan shall not be affected by this Executive Order. To the extent that an employee performs duties for the Illinois Racing Board, the Illinois Gaming Board, the Department of Revenue itself, or any other division or agency within the Department of Revenue, that employee shall be transferred to his or her respective Board at the Governor's discretion.

- B. All books, records, papers, documents, property (real and personal), contracts, and pending business pertaining to the powers, duties, rights and responsibilities transferred by this Executive Order from the Department of Revenue to the Illinois Racing Board and the Illinois Gaming Board, respectively, including but not limited to material in electronic or magnetic format and necessary computer hardware and software, shall be delivered to each respective Board.

- C. All unexpended appropriations and balances and other funds available for use in FY2010 in connection with any of the Functions shall be transferred for use by the Illinois Racing Board and the Illinois Gaming Board, respectively, for the Functions of each respective Board pursuant to the direction of the Governor, except for such unexpended appropriations and balances and other funds made to the ARSSC or to the Department of Revenue on behalf of the ARSSC, that are for Functions not transferred by this Executive Order. Unexpended balances so transferred shall be expended only for the purpose for which the appropriations were originally made. All unexpended appropriations and balances and other funds available for use by the Department of Revenue in FY2009 in connection with any of the Functions shall remain with the Department of Revenue for payment of FY2009 obligations for the Functions so transferred by this Executive Order, including those payments payable within the FY2009 lapse period.

III. SAVINGS CLAUSE

- A. The powers, duties, rights and responsibilities related to the Functions and transferred from the Department of Revenue by this Executive Order shall be vested in and shall be exercised by the Illinois Racing Board and the Illinois Gaming Board, respectively. Each act done in exercise of such powers, duties, rights and responsibilities shall have the same legal effect as if done by the Department of Revenue or its divisions, officers or employees.

- B. Every officer of the Illinois Racing Board and the Illinois Gaming Board, respectively, shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing law for the same offense by any officer whose powers or duties were transferred under this Executive Order.

- C. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon the Department of Revenue in connection with any of the Functions transferred by this Executive Order, the same shall be made, given, furnished or served in the same manner to or upon the Illinois Racing Board and the Illinois Gaming Board, respectively.

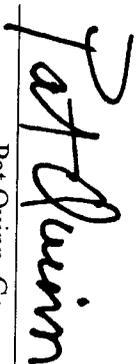
FILED
INDEX DEPARTMENT
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D. This Executive Order shall not affect any act done, ratified or canceled or any right occurring or established or any action or proceeding had or commenced in an administrative, civil or criminal cause regarding the Functions of the Department of Revenue before this Executive Order takes effect; such actions or proceedings may be prosecuted and continued by the Illinois Racing Board and the Illinois Gaming Board, respectively.

E. Any rules of the Department of Revenue, the Illinois Racing Board, or the Illinois Gaming Board that relate to the Functions that are in full force on the effective date of this Executive Order and that have been duly adopted by such Department or Board shall become the rules of the respective Board. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rules filed with the Secretary of State by the Department of Revenue, Illinois Racing Board or the Illinois Gaming Board that are pending in the rulemaking process on the effective date of this Executive Order and that pertain to the Functions transferred, shall be deemed to have been filed by the respective Board. As soon as practicable hereafter, each Board shall revise and clarify the rules transferred to it under this Executive Order to reflect the reorganization of rights, powers and duties affected by this Executive Order, using the procedures for recodification of rules available under the Illinois Administrative Procedures Act, except that existing title, part, and section numbering for the affected rules may be retained. Each Board, consistent with its authority to do so, may propose and adopt under the Illinois Administrative Procedures Act such other rules that will now be administered by each respective Board. To the extent that, prior to the effective date of the transfers, the Director of the Department of Revenue had been empowered to prescribe regulations or had other rulemaking authority with respect to the Illinois Racing Board or the Illinois Gaming Board, such duties shall be exercised from and after the effective date of the transfers to the Executive Director of the Illinois Racing Board or the Administrator of the Illinois Gaming Board, respectively, who shall be responsible for the oversight of those respective Functions.

IV. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.



Pat Quinn, Governor

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