

MINUTES OF JOINT HEARING

SENATE AND ASSEMBLY JUDICIARY COMMITTEE

MARCH 23, 1977

Senate Members present:
Chairman Close
Senator Bryan
Senator Ashworth
Senator Foote
Senator Gojack
Senator Sheerin
Senator Dodge

Assembly Members present:
Chairman Barengo
Assemblyman Hayes
Assemblyman Banner
Assemblyman Coulter
Assemblyman Polish
Assemblyman Price
Assemblyman Ross
Assemblyman Wagner
Assembly Members excused:
Assemblyman Sena

The meeting was called to order by Senator Close at 8:05 a.m. to discuss the amended bills on gaming which were drafted as a result of the March 8 and 9 meetings.

AB 211: Mr. Phill Hannifin, Chairman of the Gaming Control Board, presented the committee with an amendment to this bill and it is attached and marked Exhibit A. He stated that the control board is in favor of this bill as it allows additional sources of financing to the industry if it includes that amendment which would be added at line 15, after the word lessor.

Mr. Frankovich submitted to the committee another amendment to this bill and it is attached and marked Exhibit B. This amendment would be added between lines 12 and 13 on page 3, as 7(d). Mr. Hannifin stated that the control board would have no objection to this amendment.

Mr. Sam Belford, attorney for Nevada National Bank, submitted to the committee another amendment to this bill and it is attached and marked Exhibit C. This amendment would be added as a new section at the end of the bill. Mr. Hannifin stated that the control board would have no objection to this amendment.

AB 355: Mr. Bud Hicks, Deputy Attorney General, addressed the committee on this bill stating that some of the critical language which had been agreed upon by the industry and the gaming authorities had been changed by the bill drafters in writing the amendments. Mr. Daykin was then called to the hearing for information on why these changes were made.

Mr. Hannifin stated that it was extremely difficult for him to try to come to terms with the industry and then have that language changed by the bill drafter.

In answer to a question from Mr. Hannifin, Chairman Barengo stated that the reason section five was deleted was by direction of the Assembly Judiciary Committee which believed that section five should not be included, as well as portions of sections six and sixteen.

Chairman Close stated that in the event the Senate sustains the Assembly's action Mr. Hannifin should prepare a fiscal note so that funding can be made if it becomes a fact.

Mr. Hannifin stated that he would have a preliminary budget drafted on this. Chairman Barengo said that he had talked to the Assembly Ways and Means Committee and they had stated that they would not close their budget in this area until that was decided.

Mr. Bud Hicks then began going through the bill section-by-section.

Section 1: This section was not discussed at this time.

Section 2: This section was acceptable as drafted.

Section 3: This section was acceptable as drafted.

Mr. Daykin entered at this point.

Section 4: On page 2, lines 28 and 29 was changed by the bill drafters and after discussion on this it was determined that the wording should be "commission has reason to believe that..... would otherwise be inconsistent....". Chairman Close stated that this could be studied later.

On line 36, after the word respectively, there should be a closing parenthesis. Mr. Daykin stated that was right, that there was a typographical error there and it could be changed without amendment.

Section 5: On page 3, line 19 after the word not, there should be added the language ", after receipt of written notice from the commission:". Mr. Daykin agreed.

On line 22, at the end of that sentence there should be the following additional language, "Any contract or agreement for personal services or the conduct of any activity at a licensed gaming establishment, except a bona fide entertainment contract, between an employee terminated because of failure to apply for a license or a finding of suitability, denial of a license or/suitability, or revocation of a license or a finding of suitability, or any business enterprise under the control of that employee in the corporate licensee, holding or intermediary company or registered publicly traded corporation, is void as against public policy". He said he felt this was inadvertantly left out in the consolidating of other sections. Mr. Daykin agreed.

The sections discussed at this time were only those which needed some comment from Mr. Daykin, thus the irregularity of numbering.

Section 8: On page 4, line 40, Mr. Hicks stated the language should be: "and no holder thereof aquires any vested right therein or thereunder." This was the language upheld in the Rosenthal case and they wanted to hold to that language. Mr. Daykin agreed.

Section 16: On page 11, line 48, Mr. Hicks stated there was a portion left out here. Mr. Daykin and Mr. Hicks are going to get together to work this out between themselves.

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Section 4: On page 3, line 23, there should be additional language added to read: "Enter into any contract or agreement involving the activities of a corporate licensee with him...". Mr. Daykin agreed with this addition.

That concluded the sections Mr. Daykin was brought in to consult on.

Section 5: Mr. Hicks stated that this section was a consolidation of the old sections 20, 21 and 22. And, there were no other changes than those discussed with Mr. Daykin.

Section 6: This is the old section 7 and there were no problems.

Section 7: This is the old section 8 and there were no problems.

Section 8: This was discussed with Mr. Daykin. Mr. Hicks stated that there should be language in paragraph (d) which would state "to foster the stability and success of the gaming industry and to preserve the...".

Section 9: This is the old section 10 and there were no problems.

Section 10: This is the old section 11, and there should be a deletion of lines 24 through 28 as discussed at the last industry/gaming authority meeting and agreed upon.

Section 11: This is the old section 12 and there were no problems.

Section 12: This is the old section 13 and there were no problems.

Section 13: This is the old section 14 and there were no problems.

Section 14: This is substantially the same as former section 15 except for one change on page 8, lines 44 through 48 were deleted and on line 48 the word "licensee" was added. And, there were changes made on page 9, lines 1 through 9 at the recommendation of the committee. It was again pointed out that there is a Supreme Court case in regard to this now and this may be reviewed at a later time after that decision is reached.

Section 15: This is the former section 16 and was changed to comply with the Assembly Judiciary Committee's deletion of section 5.

Section 16: This section was covered with Mr. Daykin. Formerly 17.

Section 17: This is the former section 18 and the only addition is the language in lines 13 through 19. This reprint also included the new paragraph 5, on lines 32 and 33.

Section 18: This is the former section 19 and has no changes.

Section 19: This is a new section added by Mr. Daykin and is a clean up section and the board has no objection to that addition.

Section 20: This is a change by Mr. Daykin on page 14, lines 7 through 11 and the board felt this was an excellent addition to this statute.

Section 21: This is the former section 20 and there is no problem.

Section 22: This is the former section 21 and there is no problem.

Section 23: This is the former section 22 and there is only a problem with the licensing of directors of publicly traded companies. It is distinctive and therefore the change on page 15, lines 17 through 22, because of the uniqueness of this situation. There is also a change on lines 43 through 46 due to this situation and the industry agrees with these changes as well as the board agrees.

Section 24: This is the former section 23 with a clarification of language on lines 17 through 24. This does not change intent.
Section 25: This is the former section 24 with no changes.
Section 26: This is the former section 25 with no changes.
Section 27: This is the former section 26 with no changes.
Section 28: This is the former section 27 with no changes.
Section 29: This is the former section 28 with no changes.

Mr. Don Stephenson, representing the gaming industry, stated that he wished to thank the gaming control board for their efforts in this matter and he wished to acknowledge the following people from the industry who had been a great deal of help in working on AB 355. They are:

Mr. Bernard Sieglin, MGM
Dick Shehan, Ceasar's World
Frank Shaddock, Hilton
Frank Johnson
Mead Dickson, Harrah's
Charles Munson
Deitrich Mayring, Del Webb, Sahara Tahoe
Tom Harold, Del Webb, Sahara Tahoe
Al Gomes, Del Webb, Primadonna
Bob Faiss, Del Webb

He then thanked the committee for their courtesy and Phil Hannifin and his associates for a job well done.

AB 375: Chairman Close noted an amendment to AB 375, section 2. It is attached and marked Exhibit D.

Mr. Hannifin explained that it is the feeling of the gaming control board is that there should be no change in the present law, as it would relate to the voting procedures. He stated the board had no objection to the amendment Chairman Close had noted.

On page three, lines 16 and 17, Mr. Hannifin stated, in response to a question from Mrs. Wagner, that it was the board's feeling that a member of the board and a member of the commission should remain on the policy committee even with the addition of legislative representatives.

Mr. Mead Dickson, Harrah's, was next to address this bill. He referred to page 4, line 9 and explained to the committee in some detail why he felt that there should not be the unanimous vote requirement in this section. He suggested an amendment which would basically read: "Whenever commission action is required on any matter, such action shall be determined by vote of the commission. And, upon any application for a license or a finding of suitability, after a recommendation of denial by the gaming control board, the commission may grant the application only by unanimous vote of the members of the commission members present. In acting upon any application for a license or finding of suitability, after a recommendation of approval by the gaming control board, or in acting upon any application for commission action, other than the issuance of a license or finding of suitability, the commission may grant the application only by majority vote of the entire commission."

He stated that is amendment would make the unanimous vote necessary for only the issuance of a license or the issuance of a finding of suitability. He stated he would furnish a copy of that language to the committee.

Senator Dodge asked Mr. Hannifin what his opinion was regarding the present voting system. Mr. Hannifin stated that it had stood the test of time and he felt there was no point in altering it at this point. He stated that the present procedures had been upheld by the Rosenthal decision and he did not feel they should be changed in view of the unknown impact involved.

A brief discussion regarding this matter followed amongst the committee and Mr. Hannifin.

Chairman Close explained that the Assembly Judiciary Committee had jurisdiction over these bills and that they would have further testimony or discussion on them and then they would amend them if necessary and then vote them out as they see fit. The bills will then go to the Senate for their independent judgment for their discussion and decision on them.

Chairman Close also stated that AB 225 and AB 398 would be killed by the Assembly Judiciary Committee and the Senate Judiciary Committee.

Mr. Hannifin asked if the Gaming Control Board could take a few moments of the committees time to explain the intent behind the introduction of an additional bill, AB 491, which had been introduced at the request of the gaming control board subsequent to the others which had been heard. He pointed out that the industry wished to review this bill before making comment.

Chairman Close stated that they would accept the background information at that time.

AB 491: Section 2: Mr. Hicks explained that this is a new statute which would replace a current provision in the act, 465. 145, subsection 4. This would be for a determination of validity or construction of a provision in the gaming control act or a regulation of the gaming commission which would provide for a construction of validity or a determination of construction. He went on to explain the intent of this section further.

He pointed out on line 4 of page 2 that this makes the law consistent with the Rosenthal decision on the rights of extraordinary relief during the licensing process.

Section 4: He stated this section related to confidential information and the notice that must be given to the board or commission in relation to that. He said this is needed because they have been forced to do this in the past on very short notice and in cases where they did not believe the information should have been released.

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Section 5: He stated that this section provides for the protection of informants and their internal investigatory summaries which is extremely important if they don't want these sources to disappear. Discussion in this area followed at some length.

Senator Close stated there would be further hearings on this bill at a later time and those involved would be notified at that time.

The meeting was adjourned at 9:56 a.m.

Respectfully submitted,

Linda Chandler
Linda Chandler, Secretary

EXHIBIT A

Submitted by Mr. Hannifin

Am #1 at line 15 of lessor

AB 211

The lessor is a banking corporation organized under the laws of this state, or a national banking association which has its chief place of business in this state, or a wholly owned subsidiary of any of the foregoing, or any corporation controlling, controlled by, or under common control with, any of the foregoing.

AB 211

Amendment to NRS 463.160-7(d)

7. . . .

(d) Who is licensed as a distributor pursuant to NRS 463.650 through 463.670, inclusive, and who rents or leases any gaming equipment, including any slot machine under a bona fide rental agreement which provides for fixed rental payments which are not measured by or related to the revenue derived from any such gaming equipment or slot machine.

AB211

63.650 Licensing of manufacturers, sellers, and distributors of certain gaming devices, equipment, materials.

1. It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to operate, carry on, conduct or maintain in the State of Nevada any form of manufacture, selling or distribution of any device, equipment, material or machine used in gambling, except pinball machines, without having first procured a license for such manufacture, selling or distribution as provided in NRS 463.650 and 463.660. A capital lease transaction, as defined in section 1, is not a form of manufacture, selling or distribution.

Amendment to A.B. 375

Sec. 2

2. "Licensee" as used in this statute means:

(a) Any person who holds or is seeking a state gaming license as defined in NRS 463.0113 or is required to hold a state gaming license pursuant to NRS 463.160; or

(b) Any person who is, or is seeking to be, or who is required to be licensed, found suitable or registered pursuant to NRS 463.482 to 463.641, inclusive; or

(c) Any person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with (a) or (b) above.