

SENATE MEMBERS PRESENT:

Senator Close  
Senator Hernstadt  
Senator Don Ashworth  
Senator Dodge  
Senator Ford  
Senator Raggio  
Senator Sloan

ASSEMBLY MEMBERS PRESENT:

Assemblyman Hayes  
Assemblyman Stewart  
Assemblyman Fielding  
Assemblyman Horn  
Assemblyman Malone  
Assemblyman Polish  
Assemblyman Prengaman  
Assemblyman Sena

SENATE MEMBERS ABSENT:

None

ASSEMBLY MEMBERS ABSENT:

Assemblyman Banner  
Assemblyman Brady  
Assemblyman Coulter

Senator Close called the meeting to order at 8:10 a.m.

SENATE BILL 500

Provides for appointment, powers and duties of supervisor for gaming establishment if its license is lapsed, revoked or suspended.

Ray Pike, Deputy Attorney General for the Gaming Control Board, said that under this bill, a petition for supervisorship of a gaming establishment must be ex parte and must give the names of two or more persons that could manage the establishment. A court would appoint the person to actually serve as supervisor, and this would be consistent with present law that the Gaming Commission determines who is suitable.

Mr. Pike said that the triggering provision of a supervisory action would be a finding by the Gaming Commission of violations of Nevada statute or law that result in suspension of a gaming license, including emergency revocation or a lapse in a special situation that has been deemed to have been allowed for failure to meet conditions imposed upon the license. He said that imposition of supervisorship is not a business decision by a casino, rather it is a decision made by the Commission.

Mr. Pike said that the supervisor was not liable for any debt that would be incurred by the gaming establishment while it is under his control. He said that there is an end provided for supervisorship because this is viewed only as a temporary measure. He said that the court appointing the supervisor retains jurisdiction over the matter, and the court would be involved to see that all transactions relating to the gaming establishment were fair. If an individual transferred property relating to this establishment at a value less than full market value, this would constitute a felony, and the supervisor could petition the court for that property.

Jesse Choper, a professor of law at the University of California, Berkeley, said that he had been asked to comment on the constitutional aspects of this proposed legislation. He said that with proper notices of fair hearings in the case of a supervisory takeover of a gaming establishment, he felt the bill could stand up to any constitutional attack. He said he thought the effort had been made to be fair to the persons whose licenses have been revoked or suspended.

Professor Choper said that he had a question in Section 22 dealing with the earnings of the establishment during the term of the supervisorship. He noted that the bill allowed that the earnings "may" be paid to former owners, and he said it would seem that the thrust of this legislation would be that earnings "shall" be paid to former owners. He said that the wording of an "average rate of return" could result in a constitutional depravation to former owners whose earnings had been higher than an average return.

Professor Choper said that wording in Section 25, Subsection 3 could probably be strengthened by providing that when a supervisor is selling a gaming establishment, it would be insured that he gets a reasonable price. He said that this sale of the establishment could be compared to an imminent domain proceeding.

Senator Hernstadt asked what could happen if a former owner had only had a marginal operation and decided to close the casino. Professor Choper said that once a supervisor was appointed, the former owner could not close the establishment, although there was no prohibition imposed that the former owner could not seek to sell the property.

Senator Don Ashworth suggested that in the seizure of illegal drugs, that the former owners of those drugs receive no compensation from those drugs, and by the same principle, he wondered if the State would have to provide any of the net earnings to the former owners. Professor Choper said that he thought the argument that could be made for this election might well not endanger the constitutional defense that could be made for the bill. He said also that using the same line of reasoning, the casino could be sold with all of the proceeds going to the State.

Senator Raggio asked if State takeover of a casino constituted a sufficient public interest for this type of involvement. Professor Choper said that if the Legislature said that this was a public purpose, it would probably stand as a public purpose.

Professor Choper said that there would be no sale of a gaming establishment until all procedures were followed. He said that if a court overturned the state of supervisorship, then the supervisorship would end.

Professor Choper said that in regard to the liability of a supervisor, if an agreement was made between the Gaming Commission and the owner of the property that the supervisor would be immune from all but misconduct, then the former owner would have a hard time getting over the specific waiver.

Dave Russell, Northern Gaming Association of Nevada, said that the concerns raised by Professor Choper were those shared by all involved. He said that he did not have many of the concerns because the bill was drafted carefully to protect the former licensee as well as the State. He said he thought this bill was fair to gaming authorities and the industry.

### SENATE BILL 453

Revises provisions for casino entertainment tax.

Roger Trounday, chairman of the Gaming Control Board, said that a situation had been encountered where an individual would be charged the price of a ticket for a casino show, and then while at the show purchase drinks. He said that the Commission had been given the opinion that the ticket price was not taxable. He said that the interest in this bill was to try to close the loophole so that there would be access to charging tax on the admission ticket. He said he felt obligated to bring it to the Committees' attention that if such a bill was not passed, there would be a considerable loss of revenue in the casino entertainment tax.

Bob Faiss, counsel for the Nevada Resort Association, said that Sections 1 and 2 were in legislation in the 1977 legislative session that addressed taxing events at the MGM Grand jai alai fronton. He said that to change the casino entertainment tax law as proposed by this bill would be to change the scope of the law. He said that the tax was a takeover of the Federal Cabaret Tax and had been unchanged since 1965. He said the Federal tax had been adopted 40 years earlier.

Mr. Faiss said that in 1917, a Federal Admission Tax was charged for any admission. He said that cabarets did not fall under this category, so a new tax was adopted in regard to cabarets. He noted that this was the only section of the Federal law adopted by Nevada in 1965. He said that Nevada did not adopt a tax on theatres or on sporting events at that time. He said the present bill would expand the tax to these events anywhere on the grounds of a licensed gaming establishment.

Mr. Faiss said that there was no objection to restoring the casino entertainment tax to what it was in 1965, but he would request the assurance ultimately that the Federal Cabaret Tax be adhered to.

Bernard Seglin, counsel for the MGM Grand, said that he would be opposed to the bill due to the language in Section 1. This language was that if it was determined that the casino entertainment tax had been illegally imposed by a court, the casino would be required to return the tax that was collected to those who paid the tax. If it could not be determined who paid this tax, the money would remain with the State.

Mr. Seglin said that this is a situation where a tax was illegally imposed and by a court decision later lifted. He said that based on the experience of the MGM Grand in this situation, the legal fees that were incurred were great and were closely equal to the refund that was received. He suggested a provision that if it could not be determined who a refund should go to that a licensee be able to keep the amount of the refund up to the amount paid in legal fees.

#### SENATE BILL 477

Makes certain changes in provisions for gaming licensing and control which affect publicly traded corporations.

Mr. Trounday said that this bill has to do with legending of stock, and it had caused him some serious concern. He said it was felt that the Gaming Control Board had come to a resolution of the problems and did not feel they would need legislation such as this. He said he would be totally opposed to the bill as it presently reads.

Mr. Russell stated his agreement to Mr. Trounday's comments.

Mr. Seglin said that he wished to make it clear that at a meeting with Gaming Control Board representatives, there seemed to be unanimity that there was no need for action by the Commission. He said that legending would be a serious mistake if it were proposed. He said that this could have a serious effect on stockholders' rights.

Jay Knoll said that a problems arose in a specific situation where a shareholder claimed that he did not have due notice. He said that this could be seen as a company problem. He said that he thought Mr. Trounday was referring to establishing regulations that would be general and allow a company to use its best means for giving notice to stockholders.

#### ASSEMBLY BILL 748

Allows issuance of work permit to person whose permit has been previously revoked or denied upon majority approval of Nevada gaming commission.

Mr. Trounday said that this was not a bill submitted by the Gaming Commission. He said that the thrust of this bill was to provide that a person whose license had been revoked or denied could thereafter be approved with a majority vote of the Commission, rather than a unanimous vote. He said that when a person has been denied a work permit, there was a good reason. Because of this he felt it was improper to allow overturning of a Control Board recommendation on a majority vote only of the Commission. He said that there have been times when the Commission unanimously overturned a recommendation of the Control Board.

Senator Raggio asked if there should be a situation where a vote of four of the five commissioners would be sufficient to overturn a recommendation of the Control Board. Mr. Trounday said he would not want to change the present statute.

Frank Johnson stated that he would not want to see a weakening of the present process, and he expressed his support of the position presented by Mr. Trounday.

#### SENATE BILL 500

Senator Close requested a section-by-section discussion of this bill.

In regard to Section 7, Mr. Pike said this would provide that the bill would apply only to nonrestricted gaming licensees. Section 8 would provide that the Commission would adopt regulations pertaining to the administration of gaming establishments by a supervisor. Section 9 would refer to the triggering of events before a takeover by a supervisor. He said that on Page 2, Line 21, the reference should be to Subsection 5.

Senator Close asked what would happen if a court chose not to appoint a supervisor that had been recommended by the Gaming Commission. Mr. Pike said that this would be a reason for a writ of mandate.

Senator Hernstadt asked if an owner should have an option to close his casino under certain circumstances. Mr. Pike answered that this should be the decision of the State. He said that the Commission itself can seek termination of the supervisorship at any time.

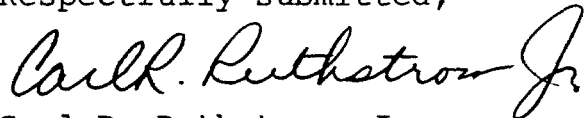
Mr. Trounday said that a situation had occurred in central Nevada where a license was revoked and an establishment closed. He said it was known that there would be an economic impact, which there was, and he said it would have been better to have had an option such as offered by this bill.

Discussion of Section 10 of the bill followed.

Mr. Pike said that Section 11 was the anti-injunctive provision of the bill. He said that no court may enjoin a supervisor. Section 12 states that a supervisor is subject to gaming laws. Section 13 provides that local licensing laws shall not preclude operation of a casino under supervision. Section 14 provides that the right, title, and interest in the property become vested in the supervisor. Section 15 would provide that the sale of any securities by a former or suspended licensee does not affect the powers of the supervisor.

Senator Close adjourned the meeting at 10:56 a.m.

Respectfully submitted,



Carl R. Ruthstrom, Jr.  
Assembly Secretary