

MEMBERS PRESENT: Chairman Stewart
Vice Chairman Sader
Mr. Thompson
Ms. Foley
Mr. Beyer
Mr. Chaney
Mr. Malone
Mrs. Cafferata
Ms. Ham
Mr. Banner

MEMBERS ABSENT: Mr. Price (excused)

GUESTS PRESENT: J. E. Roethel, City of LV
Dornan, UPI
Chris Broderick, LV Review Journal
C. G. Munson, Harrah's
Patty Becker, Attorney General - Gaming
Lucille Lusk, Clark County School District
R. W. Bunker, Gaming Control Board
Jerry Higgins, Gaming Industry Association
Frank Shattuch, Hilton Hotels
Lynne Carter, Gaming Control Board
Harlan Elges, Gaming Control Board
Pete Kelley, NV Retail Association
James Barrett, Associated Builders &
Contractors
George Knapp, KLVX-TV LV
Virginia Brewster, Clark County Schools
Robert Revert, NV Beer Wholesalers Association
Tom Seals, Distilled Spirits Council of
the U.S.
Ray Burke, Distilled Spirits Council of
the U.S.
Carole Vilardo, Citizens for Private
Enterprise - Southern Office
Bill Curran, Clark County District Attorney's
Office

Chairman Stewart called the meeting to order at 8:10 a.m. He noted that Mr. Price had been taken ill, thus his absence was excused, and Mr. Sader was appearing before another Committee and would therefore be late.

AB 341: Clarifies requirement to exclude or eject undesirable persons to certain gaming establishments.

Mr. Bunker of the Nevada Gaming Control Board (GCB) testified that this bill was an effort by the GCB to bring the statutory requirements for the list of excluded persons into conformance with some recent judicial decisions from the 8th Judicial District in Clark County. He noted his belief that it was never

the intent of the original legislation on the list of excluded people to exclude them from areas such as airports, 7-11 stores, supermarkets, etc. For that reason, the new language included in AB 341 defines the location as "areas other than slot machines".

Regarding page 1, lines 19-21, this further expands the possible grounds that can be considered when discussing someone and their inclusion in the list of excluded persons.

Next Mr. Bunker passed out copies of proposed amendments to this bill (EXHIBIT A). He explained these were simply adding race books and sports books, which apparently had been inadvertently left out of the original version.

Mr. Malone questioned whether this bill would allow excluded persons to frequent those businesses which are strictly "slot arcades". Mr. Bunker said it would allow these individuals into these areas, and that the GCB would simply have to use regular enforcement methods to make certain no cheating occurred.

In reply to Ms. Ham, Mr. Bunker explained the GCB would not attempt to prevent excluded persons from playing the slots in the above-mentioned establishments for two reasons: 1) it would be almost impossible from an enforcement standpoint to monitor this type of activity, and 2) the overall purpose of the list of excluded persons is to keep out those people whose general reputation is such that their appearance would tend to bring disrepute upon the industry and upon the total image of Nevada Gaming.

Mr. Bunker told Mr. Chaney that excluded persons are not allowed on the premises of a licensed gaming establishment where there are live games or a race book or sports book. He added that the GCB has always interpreted this law to mean excluded individuals are allowed into airports, etc. and AB 341 is simply an attempt to eliminate any confusion which has arisen or may arise in the future over this issue.

Next to testify was Mr. Jerry Higgins of the Gaming Industry Association who noted the Association had no objection to the bill but would like to suggest one amendment to it: on page 2, line 24 insert the word "knowingly" after the word "therewith". This would make the statute conform to the present regulation and practice and would prevent the problem of the regulation being broader than the statute.

AB 342: Prohibits more than one licensed operation at single establishment.

Mr. Bunker of the GCB testified that in licensed gaming establishments where there is more than one license, situations have developed where there might be, for example, a significant problem with the race book and the license for the race book is

revoked, yet in the revocation of that license the operators are still in the gaming business as far as the live games, etc. The purpose of AB 342 is to put the burden on the licensee to police all areas of their gaming responsibility. Having just one license would indicate to the licensee that they had due diligence and responsibility, not only in the live games, but also in such peripheral areas as the poker pits, etc.

Mr. Bunker pointed out that as a matter of course the GCB and Commission have taken the position that they are not licensing nor are they allowing these areas to be leased out. In the past there was, on occasion, a poker operation, etc. leased out to other people, but for several years the Board and Commission have taken the position that they do not want multiple people holding licenses; i.e., someone leasing an operation.

In reply to Mr. Beyer, Mr. Bunker explained this would not prevent an establishment from adding to or expanding the establishment; they simply must notify the GCB (because of the taxing situation) what they intend to do and it is handled administratively--it does not affect the licensing process at all. If the establishment wishes to add a new dimension to the operation (e.g., a sports book), currently the individual must apply for a separate license; under AB 342 all he would need do is obtain permission for this from the GCB.

Mr. Bunker explained to Mr. Chaney that it is no longer permissible for an establishment to lease out any of their operations. This is because of the problems involved with enforcement. He said that while the GCB has not been permitting the leasing of operations as a matter of policy, it was felt having this included in the statutes would prevent any possible misunderstanding of the matter.

Mr. Malone was told that this bill would result in a simple administrative merging of licenses into one license for those establishments which currently hold more than one license.

It was explained to Ms. Foley that AB 342 would not affect the normal licensing procedure except that individuals requesting licensing would only need one rather than several licenses.

SB 30: Extends power of state gaming control board to examine enterprises related to gaming.

Mr. Bunker of the GCB testified that the purpose of this bill is to provide an intermediate stop between no licensing and having to go through a full suitability hearing.

Mr. Bunker distributed copies of statutes from the Gaming Control Act which he felt applied to this situation, explaining these are current laws. (See EXHIBIT B.)

Mr. Bunker said NRS 463.140 (EXHIBIT B) really explains what the audit capability of the GCB is right now. NRS 463.160 (EXHIBIT B) is also the current law; it gives the GCC authority to require the application "of any business or person for a determination of suitability to be associated with a gaming enterprise if the person or business...provides any goods or services to the licensed gaming establishment for a compensation which the board finds to be grossly disproportionate to the value of the goods or services".

Mr. Bunker noted that the GCB currently has the authority to call forward a purveyor for licensing if it choses to do so. SB 30 would permit the GCB to notify a purveyor that there is a particular situation into which the Board would like to look and ask to review the purveyor's records. In this way, if no problem surfaced, the matter would be over and done with. However, if SB 30 is not passed, then the only opportunity the GCB has is to ask the purveyor to come in for full suitability, which then requires they come up with everything: all their business records and whatever else the Board requires.

Mr. Bunker reiterated SB 30 would give the purveyor an intermediate ground whereby, perhaps in a very short period of time--1 or 2 days-- the GCB could come in, audit the particular situation over which there was concern and be gone. Thus, rather than a detriment, this legislation is positive in nature and an attempt to save these businesses both time and effort.

Mr. Bunker then explained those changes which the Board suggests be made to this bill (see pages 2 and 3, EXHIBIT B):

Regarding section 1, subsection 3 (e): If a finding is made, then some type of formal meeting possibly would be required wherein that finding would be determined. By requiring only that the Board or Commission "have reason to believe", it would simplify the enforcement process. He felt the second change was self-explanatory.

Additionally it was noted that on page 4, line 37 the word "personal" should be inserted between the words "or" and "property" in order to distinguish it from the people who are leasing facilities on the premises. The people who are lease holders are covered in other sections of the NRS.

Chairman Stewart noted that there was a question as to the constitutionality of administrative searches and that research into this question was needed. It was noted this information would be provided to the Committee at a later date.

Regarding the terminology "grossly disproportionate", Mr. Bunker said that it has been determined that this is the best language available, and that it has been used elsewhere in the statutes and proven to be a useable standard.

Next to testify on SB 30 was Assemblyman Ed Kovacs, who read the testimony attached as EXHIBIT C.

In reply to Mr. Stewart, Mr. Kovacs said he felt the GCB currently has sufficient power to examine those records which it requires, and he sees no need for expanding this power.

Mr. Pete Kelley testified next, reading his testimony which is attached as EXHIBIT D.

Carole Vilardo of Citizens for Private Enterprise, South testified next. She distributed a copy of a resolution, which is attached as EXHIBIT E. She then cited an incident which occurred last week involving the subpoena, by Metro, of the records of a Las Vegas company which was found to have "disproportionate" provision of services. This is one more indication that the GCB does not need additional powers in this area.

Ms. Vilardo also asked how far this provision, if passed, can be taken. If, for example, a company provides uniforms to a hotel/casino, does the investigation stop with this company, or does it go on to the company which provided the uniforms to the first company, etc.?

The last individual to testify on SB 30 was Mr. James Barrett, the Executive Director of the Associated Builders and Contractors of Northern Nevada. Mr. Barrett noted he did not believe the State of Nevada should have to rely on other government agencies for information concerning their investigations; they should have the necessary powers within the State. However, he wondered if SB 30 might not be too broad, involving any company which does any business with a casino.

Mr. Barrett said that under this bill, any company that has the slightest business contact with a gaming establishment can be called in by the GCB if there is a finding of "grossly disproportionate compensation". A major question, however, is who among the GCB is qualified to say what is "grossly disproportionate". There are a great many things which must be considered by a company when assessing fees, and it is not certain members of the GCB are qualified to judge whether or not these fees are reasonable.

Mr. Barrett said that if this bill is an attempt to prevent a "scam", then it should so state. He also pointed out that if this is the case, then the bill falls short of its intended goal, since many "scam" operations are run from out of state in order to avoid state prosecution.

Another point raised by Mr. Barrett is that there is no restraint in the bill, either as to how soon a company must present its records to the GCB after being requested to do so, nor concerning which records must be presented.

Mr. Barrett suggested that, if passed, SB 30 should be amended as follows: a) delete lines 23-29 on page 2, and b) include the right to require that records be produced upon request in line 39, page 2. This would not water down the law, but it would water down the demand. This should be a strong bill, but it should not give a power for blanket demands. The GCB should have to show cause and give a specific time period for producing the records.

SB 31: Extends admissibility of intercepted communications into evidence.

Mr. Bunker of the GCB said this bill is an attempt to be able to use information that has been lawfully and legally intercepted in other jurisdictions; e.g., a federal wiretap.

Mr. Bunker reminded the Committee that during the Joint Senate/Assembly hearings on this bill several safeguards concerning SB 31 were enumerated. He reiterated that one of the most important of these is being positive that the communication was lawfully intercepted; i.e., the authorization was given by a court of competent jurisdiction and was later authenticated and that the order authorizing it was sufficient and that the interception was made in conformity with the authorization given, etc. He summarized his testimony by noting this type of information could be extremely useful to the GCB, and by stressing that this bill has nothing to do whatever with Nevada having the authority to intercept electronic communications.

Mr. Bill Curran of the Clark County District Attorney's Office and also representing the State District Attorneys Association stated these two groups also support SB 31. He noted that it had application to other areas in addition to gaming, including narcotics trafficking, etc.

As there was no further testimony, Chairman Stewart declared the public hearing closed.

Next the Committee took action on several of the bills:

AB 341: Clarifies requirement to exclude or eject undesirable persons to certain gaming establishments.

Chairman Stewart reviewed the amendments suggested during the testimony on this bill.

Mrs. Cafferata moved AMEND AND DO PASS AB 341, seconded by Mr. Malone and passed unanimously, with Mr. Price absent.

AB 342: Prohibits more than one licensed operation at single establishment.

Ms. Foley moved DO PASS AB 342, seconded by Mrs. Cafferata, and passed unanimously, with Mr. Price absent.

SB 30: Extends power of state gaming control board to examine enterprises related to gaming.

Chairman Stewart noted he had requested additional research on the question of constitutionality of administrative searches, and that the Committee should therefore postpone action on this bill until that information was received.

Ms. Ham asked if this bill would require additional staff in the GCB in order to enforce it, and therefore would have a fiscal impact. Chairman Stewart did not believe this would require additional staff, nor would it have a fiscal impact.

SB 31: Extends admissibility of intercepted communications into evidence.

Mr. Chaney moved DO PASS SB 31, seconded by Mr. Malone, and passed with all voting in favor except Mr. Banner, who voted against and Mr. Price who was absent.

Following discussion of which subcommittees would be ready to make reports during tomorrow's meeting, this meeting was adjourned at 9:50 a.m.

Respectfully submitted,

Pamela B. Sleeper

Pamela B. Sleeper
Assembly Attache

GCB PROPOSED AMENDMENTS TO A.B. 341

Amend Section 1, page 1, lines 2-10 (NRS 463.151) as follows:

463.151 1. The legislature hereby declares that the exclusion or ejection of certain persons from licensed gaming establishments [licensed for] which operate any horse race book, sports pool, or games, other than slot machines only, or conduct pari-mutuel wagering is necessary to effectuate the policies of this chapter and to effectively maintain the strict regulation of licensed gaming.

2. The commission may by regulation provide for the establishment of a list of persons who are to be excluded or ejected from any licensed gaming establishment which [is licensed to] operates any horse race book, sports pool, or gambling game, other than slot machines only, or conducts pari-mutuel wagering.

Amend Section 2, page 2, lines 19-26 (NRS 463.154) as follows:

463.154 The commission may revoke, limit, condition, suspend or fine an individual licensee or a[n] licensed gaming establishment [licensed to conduct] which operates any horse race book, sports pool, or gambling game, other than slot machines only, or conducts pari-mutuel wagering, in accordance with the laws of this state and the regulations of the commission, if that establishment or any individual licensee affiliated therewith fails to exclude or eject from the premises of the licensed establishment any person placed on the list of persons to be excluded or ejected.

Amend Section 3, page 2, lines 28-35 (NRS 463.155) as follows:

463.155 Any person who has been placed on the list of persons to be excluded or ejected from any licensed gaming establishment pursuant to NRS 463.151 is guilty of a gross misdemeanor if he thereafter enters the premises of a[n] licensed gaming establishment which [is licensed to] operates any horse race book, sports pool, or gambling game, other than slot machines only, or [to] conducts pari-mutuel wagering without first having obtained a determination by the commission that he should not have been placed on the list of persons to be excluded or ejected.

ABILITY TO AUDIT - CURRENT LAW

NRS 463.140(3) (d)

3. The board and the commission and their agents may:

(d) Demand access to and inspect, examine, photocopy and audit all papers, books and records of applicants and licensees, on their premises and in the presence of the licensee or his agent, respecting the gross income produced by any gaming business, and require verification of income, and all other matters affecting the enforcement of the policy or any of the provisions of this chapter.

LICENSURE - BUSINESS ON PREMISE
JUNKET REPS, AND PURVEYORS -
CURRENT LAW

NRS 463.160(8)

8. If the premises of a licensed gaming establishment are directly or indirectly owned or under the control of the licensee therein, or of any person controlling, controlled by, or under common control with the licensee, the commission may, upon recommendation of the board, require the application of any business or person for a determination of suitability to be associated with a gaming enterprise if the person or business:

(a) Does business on the premises of the licensed gaming establishment;

(b) Does business with the licensed gaming establishment as a junket representative or ticket purveyor; or

(c) Provides any goods or services to the licensed gaming establishment for a compensation which the board finds to be grossly disproportionate to the value of the goods or services. /

ABILITY TO AUDIT

S.B. 30

463.140

3. The board and the commission and their agents may:

(e) If the board or commission has reason to believe that a person who furnishes services or property to a nonrestricted licensee is receiving a compensation grossly disproportionate to the value of the property or services furnished, demand access to and inspect, examine, photocopy and audit all papers, books and records of the person so furnishing them, on his premises and in his presence or the presence of his agent, respecting the gross income produced by his business, and require verification of income, and all other matters affecting the enforcement of the policy or any of the provisions of this chapter.

S.B. 30 First Reprint

463.140

3. The board and the commission and their agents may:

(e) If a person furnishes any services or property to a licensed gaming establishment for a compensation which the board or commission finds to be grossly disproportionate to the value of the services or property, demand access to and inspect, examine, photocopy and audit all papers, books and records of the person so furnishing them, on his premises and in his presence or the presence of his agent, respecting the gross income derived from the licensee or licensees.

LICENSURE - PURVEYORS

S.B. 30

463.160(8)(c)

(c) Provides any goods or services to the licensed gaming establishment for a compensation which the board [finds to be] has reason to believe is grossly disproportionate to the value of the goods or services.

S.B. 30, First Reprint

463.160(8)(c)

(c) [Provides any goods or services] Furnishes any services or property to the licensed gaming establishment for a compensation which the board finds to be grossly disproportionate to the value of the [goods or services.] services or property.

FOR THE RECORD, MY NAME IS ED KOVACS, ASSEMBLYMAN REPRESENTING DISTRICT ONE IN CLARK COUNTY. I WILL READ MY TESTIMONY AND NOT PREVAIL UPON THIS COMMITTEE'S IMPORTANT TIME.

HOWEVER, I WOULD BE REMISS IF I DID NOT REPORT TO YOU COMMENTS MADE TO ME BY BUSINESSMEN IN MY DISTRICT REGARDING S.B. 30.

THESE ARE SMALL BUSINESSMEN DEALING WITH RESORT HOTELS AND CASINOS. THEY RANGE FROM A SMALL INSURANCE AGENCY, AN AIR CONDITIONING AND HEATING FIRM, AN AUTOMOBILE AGENCY, AN INDEPENDENT AIRLINE, A LAUNDRY, A SMALL APPLIANCE REPAIR SHOP, A FLOOR AND TILE COVERING BUSINESS AND A CAR RENTAL AGENCY. THERE IS ALSO A FENCE COMPANY, A SAUSAGE MANUFACTURING COMPANY, A LANDSCAPING NURSERY, A LOCK SMITH (WHO IS MY NEIGHBOR), A TRAVEL AGENCY, A COMPANY DEALING IN OFFICE MACHINES, A FLORIST, A GLASS COMPANY, A NEW AND USED FURNITURE DEALERSHIP, A VACUUM SALES COMPANY, A WHOLESALE MATTRESS COMPANY, A COMMERCIAL SIGN COMPANY AND A CABINET MAKER.

NOW IN MOST CASES, THESE ARE MOM AND POP TYPE OPERATIONS. IN ONLY TWO OR THREE THAT I HAVE REFERRED TO WOULD YOU CALL IT A LARGE COMPANY.

HOWEVER, IN MAKING AN INQUIRY AS TO HOW MUCH IMPACT OF GROSS BUSINESS THEY DID, IT IS AMAZING TO FIND WE ARE TALKING ABOUT CLOSE TO 15 MILLION DOLLARS GROSS SALES PER YEAR. AND THIS IS JUST A REPRESENTATIVE GROUP OF BUSINESSES.

ON THE OTHER HAND, THEY ARE NOT VESTED SPECIAL INTEREST BUSINESSES. THEY ARE LOCAL FOLKS--IN BUSINESS--WHO HAVE WORKED HARD.

THEY ARE LICENSED BY THE CITY OR COUNTY,

IN SOME CASES, COME UNDER STATE REGULATIONS,
AND ALL PAY TAXES AND ARE SUBJECT TO I.R.S. AUDITS.

HOW MUCH CAN YOU DEMAND OF SMALL BUSINESSES?

IF YOU VOTE A DO PASS ON S.B. 30, YOU GIVE A STATE AGENCY A
"GROSSLY DISPROPORTIONATE" CONTROL AND AUTHORITY OVER THOUSANDS
OF NEVADA SMALL BUSINESSMEN.

ONE OWNER ASKED ME, AND I QUOTE: "IS IT FAIR TO DEMAND ACCESS
AND TIE UP ALL MY RECORDS AND BOOKS ON THE ARBITRARY DECISION
OF A BUREAUCRAT? IT SEEMS LUDICROUS AND TOO FAR REACHING AN
AUTHORITY, FOR ANY STATE AGENCY."

THE PRESENT COMMISSION AND BOARD, I BELIEVE, ARE BEYOND CRITICAL
REPROACH, BUT SUPPOSE THERE ARE NUMEROUS REPLACEMENTS AS WE
HAVE SEEN IN THE PAST FEW MONTHS?

COULD NOT A PERSON WITH THESE ALMIGHTY POWERS EXTEND UNLIMITED
CONTROL AND ABUSES OVER COMMERCIAL BUSINESSES WITH NO CHECKS
AND BALANCES?

THIS COULD BE THE MOST IMPORTANT PIECE OF LEGISLATION THAT
AFFECTS THE BUSINESS COMMUNITY IN NEVADA THAT WILL COME OUT
OF THIS SESSION.

THE INTENT OF THIS BILL IS TO ALLOW THE GAMING CONTROL BOARD
TO LOOK INTO THE AFFAIRS OF A PRIVATE ENTERPRISE, NOT IN THE
GAMING BUSINESS.

IT IS THE BELIEF OF THE BUSINESSMEN IN MY COMMUNITY THAT THEY
SHOULD NOT HAVE THIS AUTHORITY.

I URGE YOUR RECOMMENDATION TO POSTPONE THIS BILL INDEFINITELY.

EXHIBIT D

The Nevada Retail Association strongly opposes this bill.

I can assure you that should this bill pass, it will have a chilling effect on hundreds of businessmen throughout Nevada who make a living for themselves and their employees. Most of these businessmen to whom I refer do not hold a gaming license and should not, under any circumstances, be placed under the thumb of gaming control agents.

The gaming commission and the state gaming control board now have virtual life/death powers over casino operators in this state. That may be as it should be because gambling in Nevada is a privileged industry and as such should be subjected to rigorous control.

But to extend those awesome powers to the hundreds of businesses which supply products or services to those casinos is wrong. It's entirely presumptuous on part of gaming regulators to ask for such new and tremendous authority over and beyond those powers they now possess.

Business, which now is pretty well regulated by city, county and state laws, does not need this additional threat of harassment or regulation from still another government entity. It's overkill.

The bill is faulty in construction. It asks, in essence and in its own terms, for evidence which the board and commission already have. In order to obtain access to and inspect or audit the papers, books and records of a person furnishing services or goods to a licensee, the board or commission must have already made a finding that the compensation to the supplier is grossly disproportionate to the value of goods or service.

It has made this finding through the virtually unlimited powers it now has

over casino operations. To extend this same power to independent businesses is excessive and dangerous.

Having made the finding, the board and commission can proceed against the casino operators and rightly so, without launching fishing expeditions into books and records of retailers and others who are already subject to numerous inspections.

Additionally, the board and commission have full power under gaming law to issue subpoenas and to compel attendance of witnesses, administer oaths and require testimony. They need no more than this.

In the area of competitive business, who will make a determination that compensation is grossly disproportionate to goods and services rendered by suppliers?

This bill provides no guidelines for the board or commission in determining what is "grossly disproportionate". What about volume discounts? What about selling last year's inventory of TVs below cost to clear out inventory? It would mean little to a large retailer, but that may represent an important matter for a small retailer.

Will gaming controllers make a canvas of lawyers fees? medical fees? Utilities? All of these supply services, so they presumably must be included among those upon whom a demand for an examination of their books can be made.

If illicit practices of this type are taking place, certainly the IRS has an area of responsibility; if there is activity involving organized crime, the FBI along with local and state authorities have a responsibility; if there is such activity going on in publicly held companies, the SEC has a responsibility.

It seems inconsistent on part of those proposing this bill to ask for this additional authority, particularly at a time when, by their own admission, they have not been able to keep up with the work they now have.

Gaming authorities have gone to other legislative committees in their quest for costly increases in staff. Regulators are asking for at least 44 new positions because, by their own admission, they failed to complete 1,102 legally-mandated investigations in 1980 although the law requires, I believe, such investigations be completed within 90 days.

The bill should be rejected because it places frightening power into the hands of a few. There is no reason why gaming regulators should exert the life/death powers they now exert over gambling to all other facets of commerce in Nevada.

Thank you for your time and consideration.

CITIZENS FOR PRIVATE ENTERPRISE

2301 EAST SAHARA AVENUE · LAS VEGAS, NEVADA 89104 · TEL: 457-2326

EXHIBIT E

RESOLUTION

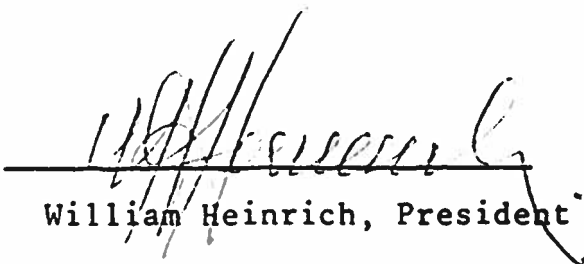
Whereas, Senate Bill 30 says "that if a person or business furnishes any service to a licensed gaming establishment for compensation which the board of commission can demand access to, inspect, examine, photocopy and audit all papers, books and records respecting the income derived; and

Whereas, Senate Bill 30 will give virtual police powers to the gaming commission and gaming control board over the thousands of businesses in Nevada with licensed gaming establishments; and

Whereas, Nevada businesses now are strictly regulated by various city, county and state laws; and

Whereas, subpoena power has already been granted to the gaming commission, a power which has been and is being used to achieve what Senate Bill 30 is requesting;

NOW, THEREFORE, BE IT RESOLVED, that Citizens for private Enterprise, South, go on record as opposing passage of Senate Bill 30 and urges the members of the Assembly Judiciary Committee to do likewise.



William Heinrich, President