

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-second Session
February 14, 2023**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:00 p.m. on Tuesday, February 14, 2023, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Dallas Harris, Vice Chair
Senator James Ohrenschall
Senator Marilyn Dondero Loop
Senator Rochelle T. Nguyen
Senator Lisa Krasner
Senator Jeff Stone

COMMITTEE MEMBERS ABSENT:

Senator Ira Hansen (Excused)

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Karly O'Krent, Counsel
Blain Jensen, Committee Secretary

OTHERS PRESENT:

Kirk D. Hendrick, Chair, Nevada Gaming Control Board
Kabrina Feser, Operations Officer, Nevada Public Employees' Retirement System

CHAIR SCHEIBLE:

We will open the hearing on Senate Bill (S.B.) 14.

SENATE BILL 14: Makes various changes related to gaming. (BDR 41-259)

KIRK D. HENDRICK (Chair, Nevada Gaming Control Board):

Senate Bill 14 makes minor changes to *Nevada Revised Statutes* (NRS) 463 to handle the Gaming Control Board's licensing process more efficiently. I have submitted written testimony ([Exhibit C](#)) and language for a proposed amendment ([Exhibit D](#)).

The first topic the Board would like to present in S.B. 14 is in section 2. Currently, if the Board determines that a debt owed to the State by a licensee or former licensee is impossible or impractical to collect, the Board must make a request to the State Board of Examiners to designate such debt as a bad debt. Upon a vote by the Board of Examiners to designate such an amount as a bad debt, the State Controller is directed to remove the bad debt from the book for the State, although it remains a legal obligation owed to Nevada.

Section 2 of S.B. 14 would streamline the process of designating bad debt by reorganizing the steps of that process. The proposal would allow the Board to determine if a delinquent debt is impossible and impractical to collect, and would authorize the Chair of the Board to notify the State Controller of such determination and remove the debt from the books of the board. The State Controller would then seek the removal of the debt from the books of the State before the Board of Examiners. Section 11 makes a conforming change to effectuate this proposal. It is important to note the Board rarely utilizes the process. The last time was in 2019 for approximately \$800 in bad debt.

For fiscal year 2021-2022, the Board collected nearly \$1.2 billion in taxes and fees and will seek Board of Examiners approval for only \$1,035 in uncollectible taxes, a collection rate of over 99.99 percent.

Section 7 deals with NRS 463.373 that imposes a quarterly slot tax on restricted licensees based on the number of slot machines being operated. The new language in subsection 5 of section 7 requires those who receive a share of revenues from the operation of slot machines to pay that person's proportionate share of the quarterly slot tax. This language exists in NRS 463.375 and NRS 463.385, thereby making the proposal consistent with collection of all slot taxes.

Section 8 amends NRS 463.386 which authorizes the Chairs of the Board and the Gaming Commission to administratively deem certain licenses upon transfer as a continuing operation, which allows the transferee to claim prepaid taxes and fees from the transferer. The Board also proposes the addition of various licenses to the authorization

The proposed amendment, [Exhibit D](#), outlines the changes to S.B. 14, section 1, which would grant the Nevada Gaming Commission authority to adopt regulations allowing the Chair of the Board to administratively approve the spouse, next of kin, personal representative, guardian or heir of a licensee who is deceased or has been judicially declared disabled to temporarily engage in certain gaming activities without first obtaining a State gaming license. Sections 3, 4 and 9 make conforming changes to NRS based on the proposal in section 1.

Sections 5 and 6 would have changed the locations for judicial review and declaratory judgement for gaming related matters. The intention was to expand the availability of judicial review for those individuals or entities that may no longer reside or do business in this State but may still have pending administrative or legal matters in Nevada. Upon review, the Board has submitted proposed amendments to sections 5 and 6, [Exhibit D](#).

Section 10 provides a narrow exception to the prohibition on former State employees who are collecting benefits from the Public Employees' Retirement System (PERS) because they cannot concurrently be employed by the State while collecting this benefit. Upon discussion with PERS, there is a better solution to this problem within NRS 286 which is described in the proposed amendment, [Exhibit D](#), from the Board.

SENATOR HARRIS:

Can you explain why temporary approval for gaming activities without a State gaming license needs to be at the Chair's absolute and sole discretion as opposed to having the Board adopt some regulations? Theoretically, the Board could give the Chair sole and absolute discretion if the Board so chooses. Why the change?

MR. HENDRICK:

The reasoning was the regulatory process. A few statutes and regulations under NRS 463 and the Nevada Gaming Commission regulations say the same thing—

the Chair shall have sole and absolute discretion or variations thereof. The key was speed, when there was a regulatory process, to give the Chair of the Board a way to decide because it is temporary. Every temporary regulation goes to the Chair of the Board, while the process goes through for full licensing. Some people do not get fully licensed; the temporary licensee in the estate ends up selling the portion of the deceased or disabled persons estate.

SENATOR HARRIS:

Is it fair to summarize your answer as, the Nevada Gaming Control Board would end up at the State Legislature anyway?

MR. HENDRICK:

Yes, after the regulatory process, it would end up saying that the Chair shall have sole and absolute discretion for a temporary license. A limited subset of people are in the circumstance of a temporary license until full licensing.

SENATOR HARRIS:

Are you aware of any other commissions, with appointed commissioners exempt from PERS collection requirements?

MR. HENDRICK:

I am not, but the amendment to that statute references retired judges. I defer the question to PERS because it is the one pointing us in that direction.

SENATOR HARRIS:

The issue you raised is true for lots of commissions in the State, not just the Gaming Commission. People with substantial amount of experience who used to work for the State will not serve on a commission because they do not want to lose PERS benefits. I am considering whether there is some additional reason why we need to fix this for the Gaming Commission, as opposed to fixing it for everybody or leaving it broken for everybody.

MR. HENDRICK:

I defer to PERS and Legislative Counsel Bureau to find out. The difference for Gaming Commissioners is their statutory salaries are \$40,000 or, in case of the chair, \$55,000. Few boards and commissions throughout the State make over the \$6,000 limit for financial disclosure.

SENATOR STONE:

When there is a continuous operation and somebody passes away, is there a time limit that a temporary license or continuous operation can go on? Is there any type of background check required? Some corporations have a succession plan, but it is surprising how many people of significant wealth do not have a will or trust, leading to uncertainty. How do you handle those types of situations?

MR. HENDRICK:

There is a lot of paperwork, both on the probate side and on the gaming side. Section 1, subsection 2, of the bill refers to limited time as the Chair determines necessary to settle the estate. Some applications take several months, and we are ending up with nobody who is licensed for several months, which is not a good regulatory scheme.

CHAIR SCHEIBLE:

You just pointed us to section 1, subsection 2 in the bill. But in the amendment, subsection 3 of section 1 becomes subsection 2; I want to make sure we are looking at the same language when talking about what happens in the case of the death of the license holder.

MR. HENDRICK:

To streamline the wording in the amendment, subsection 2 was incorporated into subsection 3, but the key word in that subsection still limits time in terms of gaming regulation. Conditions are usually in time for license terms but can be limited for administrative approval on the specific time needed.

CHAIR SCHEIBLE:

It does not exactly say that in this amended version. It says "limit an administrative approval issued pursuant to subsection 1 in any manner the Chair deems necessary and appropriate." It does not limit the time to the settling of a probate matter.

MR. HENDRICK:

This proposal is to provide leeway for the Board Chair instead of being tied to a set time necessary to settle the estate of licensee. This gives the Board Chair more discretion to allow a longer time limit, but the Chair could also limit time if the estate does not get a representative. This would speed up the time in certain cases. If there is a pending probate matter, then the Chair could extend

the time while the actual application process proceeds in the background because it takes several months.

SENATOR DONDERO LOOP:

Are we fixing something that has happened in the past, or is the Gaming Control Board anticipating a case like this in the future?

MR. HENDRICK:

This happens a lot. My first board meeting was a week and a half ago and this happened. A family in northern Nevada had lost their father, who was the patriarch of the family. The two children were aware of the business but were not involved. They did not know about the process of getting an application filed within 30 days. During that time frame, they did not file proper paperwork, and nobody was licensed to operate that gaming establishment legally. They had to come in front of the Board because they were in violation of Nevada gaming statutes and regulations; at the same time, the Board was apologizing and sympathetic to their situation.

SENATOR DONDERO LOOP:

What boggles my mind is despite lawyers, CFOs and people in charge at the gaming establishment, nobody says, "Oh, by the way, we are not licensed anymore." The bigger problem is that no one at the gaming establishment is coming forward with that information. You are saying they do not know to file, but what happens since nobody at the gaming establishment is responsible enough to come forward with that information? If you have hired lawyers who do not catch this, that is a bigger problem.

MR. HENDRICK:

Yes, you are correct. Somebody should be paying more attention, but often these are small operations unlike nonrestricted casinos in Reno or Las Vegas on The Strip. Although it is the license holder's legal responsibility to plan appropriately, often the person who owns and operates the actual casino has family who might not have been involved and nobody is there to do it. Without besmirching the probate bar, they just do not know this is required within 30 days. Either a good probate lawyer notices it immediately and gets it filed, or they notice it after 30 days, leading to the probate process of trying to transfer ownership officers and directors. This absolutely happens and then we end up in that scenario. Entities that are not watching end up potentially facing disciplinary actions.

SENATOR DONDERO LOOP:

Is it just discipline, or do they have to close?

MR. HENDRICK:

Normally a family not involved in the gaming operation tries to sell it as part of the probate process, along with other real estate and assets. Every now and then they want to keep the establishment.

SENATOR NGUYEN:

After reading S.B. 14, I assumed the bill pertains to big casinos and major stakeholders with gaming licenses, but this also includes people who have gas stations and a single machine or a couple of machines. Is my understanding correct?

MR. HENDRICK:

Yes, the item we had on our agenda a week and a half ago was somebody who had four machines at a laundromat. The laundromat was owned by the father, and his family was aware of it but not involved in the operation. You are right, this would be convenience stores, small bars throughout the State and relatives who might not even live in the same city.

SENATOR NGUYEN:

Often, we think of people owning a significant percentage of whatever the gaming license, but are there times when people own less than 1 percent? Do they still have to go through this process, or would this eliminate some hassle for those smaller stakeholders and businesses that do not have a team of lawyers?

MR. HENDRICK:

Yes. Even if somebody owned 1 percent, a closely held entity such as an LLC would have to be licensed. If that member was to pass away, the other 99 percent have lawyers or are the ones who have to step up and immediately file an application with the Gaming Control Board within 30 days. Sometimes, it does not happen; therefore, we want to fill that gap and not have unlicensed people operating gaming establishments.

SENATOR NGUYEN:

Has there ever been a consideration to require licensees to have succession plans so this problem does not occur?

MR. HENDRICK:

I do not know if that is required, but it certainly is a good idea.

SENATOR STONE:

What happens if there is an unqualified beneficiary, such as in the small casinos especially in rural Nevada? Would you allow somebody who has a felonious background or other elements or not knowing anything about the industry to use a reputable casino management company as the interim licensee to find a buyer or take over the operation?

MR. HENDRICK:

That situation can come up with a number of variables. But if one person is being represented, then the Board could temporarily allow that individual, even under this amended statute. If he or she was trying to sell the operation, the Board would have to tell the party no license will be granted. In that situation, we would move the process forward as rapidly as possible to get somebody reputable who could get through the licensing process.

SENATOR STONE:

My concern is having somebody not intimately involved with the business who starts running this operation held responsible by the Board. Not following gaming laws in Nevada can lead to trouble. Could this person basically defer to a professional gaming company as a designated agent who knows laws and how casinos need to be run in compliance with Nevada laws?

MR. HENDRICK:

The enforcement agents and other agents of the Gaming Control Board are well versed at the statutes and regulations. Agents would know after a cursory check if somebody had no idea about running a gaming establishment or did not have the background credentials to do it right. Even an approval from the Chair on a temporary basis would go to a representative who did. As Chair, I would personally say, "You will need to involve a representative who has a gaming experienced background to get through the probate process."

KABRINA FESER (Operations Officer, Nevada Public Employees' Retirement System):

Staff has recommended that the Public Employees' Retirement Board oppose S.B. 14, section 10 as previously written because it poses potential Internal Revenue Code issues with optional participation. With the amendment in

[Exhibit D](#), our staff recommends a neutral position to the Retirement Board on S.B. 14, section 10.5, subsection 7, paragraph (b) as requested by the Gaming Commission to provide a reemployment exemption to Gaming Commissioners in NRS 286.520, subsection 7. This does not amend any other provisions of NRS 286. We recognize the unique circumstances of the Gaming Commissioners, and the exemption would only apply to a limited number of people. Reemployment provisions are cost-containment features to the system, but this limited exception should not impact our costs. We note that under this section, there would be no right to reenrollment in the system of Gaming Commissioners appointed under the reemployment exemption.

A potential Internal Revenue Code issue exists if there is not a bona fide separation of employment. The Retirement Board has authority to develop policies to ensure a bona fide retirement for Internal Revenue Code compliance. If the amendment could include changing "person" to "retired employee" in section 10.5, subsection 7 to mirror all previous subsections, this would make Internal Revenue Code compliance clear.

SENATOR HARRIS:

Are there any recommendations on other commissions to which we should give an exemption? I am not convinced the Gaming Commission is differently situated than many other boards and commissions. Are there others that may benefit?

MS. FESER:

Yes, there are already reemployment exclusions for people who are appointed and elected to public office. Some of the smaller commissions would not qualify because they are below the earnings limitation. The difference is the \$40,000 salary for the Gaming Commission is above that earnings limitation.

SENATOR HARRIS:

Is it fair to say the Gaming Commission is the only one that has this problem?

MS. FESER:

We could do some additional research to find out if there are others, but we are not aware of any. The statute lists the Legislative Counsel Bureau and senior justices when revised in 2019.

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SENATOR HARRIS:

Sometimes, people do not know who to ask. I encourage you all to do more research and find out if somebody has the same problem but does not have the knowledge or drive to come forward and have a bill draft.

MS. FESER:

Any reemployed retiree does have a dual notification with the public employer. Anyone who is working as a reemployed retiree in the public sector needs to notify PERS within ten business days and the applicable employer is required to do so, regardless of the capacity. We have not heard of any other similar instances. We do have that notification process in place.

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CHAIR SCHEIBLE:

I will now close this hearing on S.B. 14 and adjourn at 1:39 p.m.

RESPECTFULLY SUBMITTED:

Blain Jensen,
Committee Secretary

APPROVED BY:

Senator Melanie, Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
S.B. 14	C	2	Kirk D. Hendrick / Nevada Gaming Control Board	Introductory Remarks
S.B. 14	D	2	Kirk D. Hendrick / Nevada Gaming Control Board	Proposed Amendment