

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
THURSDAY, AUGUST 8, 2013
APPROVED MINUTES**

PUBLIC MEETING

Vice-Chair Margarita Prentice called the Gambling Commission meeting to order at 10:55 a.m. at the Wenatchee Red Lion and introduced the members present. She welcomed Representative Christopher Hurst from Enumclaw to his first meeting.

Representative Hurst said he has been in the Legislature for 11 years. He has a 25-year background in law enforcement and has been retired for just over seven years.

MEMBERS PRESENT: **Commissioner Margarita Prentice**, Renton
 Commissioner Kelsey Gray, Seattle
 Commissioner Chris Stearns, Auburn
 Representative Gary Alexander, Olympia
 Representative Christopher Hurst, Enumclaw

STAFF: **David Trujillo**, Director
 Mark Harris, Assistant Director – Field Operations
 Tina Griffin, Assistant Director – Licensing Operations
 Amy Hunter, Administrator – Communications & Legal
 Callie Castillo, Assistant Attorney General
 Gail Grate, Executive Assistant

Agenda Review/Director's Report

Director Trujillo welcomed Representative Hurst and congratulated Representative Alexander who won the primary for Thurston County Auditor. Representative Alexander's last meeting will be November. Director Trujillo reviewed the agenda and reported there were no staff requested changes. Director Trujillo pointed out the letter from Speaker of the House Frank Chopp appointing Representative Hurst to his new post and reappointing Representative Alexander.

Budget Update (*PowerPoint Presentation*)

Ms. Judy Pittelkau, Business Operations Division Administrator, explained the purpose of the presentation is to update the Commission on the Fiscal Year (FY) 2013 activity and to request Commission approval for adjustments to the budget for the 2013-2015 biennium, which began on July 1, 2013, and runs through June 30, 2015. The Commission's powers and duties include ensuring that our fees are adequate to cover all the costs that are incurred by the agency's licensing and enforcement activities. She reported that I-960 requires any fee increases be approved by the Legislature prior to implementation, which could cause future fee increases to be delayed or denied, resulting in revenues being lower than necessary to fully fund operations and to maintain an adequate working capital balance. The Gambling Commission is non-

appropriated and does not receive any general fund dollars. The Commission is expected to cover all its costs through fees and other revenue sources. The Commission or its duly authorized representative authorizes disbursements and no legislative appropriation is required.

In FY13 the actual gambling revolving account revenue was \$12.5 million and actual expenditures were almost \$14 million. Expenditures included what was paid from the gambling revolving account, the federal and state seizure accounts, and the industrial insurance premium refund account. The industrial insurance account is funded by refunds of worker's compensation (Labor and Industries) premiums, which is risk based. The refunds are received when employers are able to reduce their employee injury rates and lower their claim costs. Those funds can be used for safety, health, and return to work related items. Actual FTEs for FY13 were 142.92, and the gambling revolving account ending working balance was \$2.7 million. Actual revenues for FY13 were \$2.5 million. The declines in the major sources of revenue occurred in the card room employee licenses, tribal regulation, and the electronic gambling lab. The difference between the budget plan and the actual results is about \$400,000, which reflects the decline in the total number of licenses during this period of a little more than 2 percent. The total number of card room employee licenses declined by about 8 percent during this period. Tribal regulation was down two FTEs during most of the period, which affected billable hours. The gambling lab's billing rate dropped almost \$18 an hour during FY13 from what had been estimated, plus they were down one FTE during half of the year, which also affected billable hours. Almost 70 percent of the Commission's revenue is attributable to license and certification activity with the remainder coming from a variety of sources. Punchboard/pull tabs continued to be the largest single source of revenue. As with most governmental agencies and private companies, the largest expenditures are combined salaries and benefits.

Last August, the Commission approved a budget for the 2013-2015 biennium of \$29.6 million and 146.5 FTEs. The budget included the cost of restoring the 3 percent temporary salary reduction and using state seizure money to fund 9 FTEs in FY14 that could not be supported by the gambling revolving account. Items that cause changes to the approved 2013-2015 biennium budget are revisions to the revenue estimates, legislative adjustments that include adding an additional step to the classified employee compensation plan, reduction of the employer's share of the health insurance contribution, and the addition of a central service charge for the Enterprise Information Technology Security Services. Staff made adjustments through expenditure realignment by moving qualified costs between funds to manage the working capital balances. Spending patterns of programs for non-compensation items are reviewed annually, looking for areas that need to be realigned. Expenditures were increased by \$50,000 during this year's annual realignment of expenditures. The legislative actions caused an increase in expenditures by a net of \$237,000.

There has been a steady decline of about 15 percent in the total number of licensees since 2008, as well as projections of the total number of licenses by the end of FY15. At the end of July, there were fewer licensees than in 2004. Between June 2008 and June 2013, the most significant declines in the number of licensees and certifications by major sources of revenue have been in licenses for punchboard/pull-tabs, house-banked card rooms, and card room employees which are our major sources of revenue. Each February and March, revenue projections are updated based on historical and future trend information that is kept for each license activity and class.

The revenue estimate that was in the budget the Commission approved last year was a little over \$26 million. The revised 2013 revenue estimate is just under \$25 million, for a difference of \$1.3 million. The estimate does not include any new fees or fee increases; however, staff is working on a proposal that would increase fees by 5 percent for FY15.

There is one decision package to convert space in the Lacey headquarters office into a large meeting area. With the decline of licensees, staffing in the Licensing Operations Division has also declined, leaving unused office space. Converting this space would allow the Commission to hold its monthly commission meetings, training, and other meeting needs in the Lacey office, which would reduce staffing costs and could make it easier for stakeholders to conduct business with other agency staff when they are attending meetings. The cost to convert this space is about \$28,000.

FTEs were reduced by reviewing priorities and creating efficiencies by using technology and making process improvements like “My Account,” which provides personalized portals where licensees and stakeholders doing business with the Gambling Commission can access information in one place. Another process is in place to closely review each position as staff retire or leave the agency to determine the need to refill that position. Seizure funds have helped make it possible to reassess workloads and reduce staffing through attrition. Since FY04, budgeted FTEs have been reduced by about 21 percent. In light of the revised revenue estimates, staff is proposing additional FTE reductions for a savings of \$342,000. The proposed revised 2013-2015 biennium budget is \$29.6 million.

The proposed revised budget includes revenue of almost \$25 million and expenditures of about \$29.6 million. Estimated expenditures include \$26 million from the gambling revolving account, \$927,000 from the federal seizure account, \$2.7 million from the state seizures account, and \$16,000 from the industrial insurance premium refund account. Without any source of additional revenue, the working capital balance for FY14 is \$2.1 million, which is close to OFM’s recommendation; however, the working capital balance for FY15 is \$1.5 million, which is significantly below OFM’s recommendation. FTEs are reduced to 146 in FY14 and 138 in FY15. During FY14 and FY15, as seizure funds are used up and revenues are less than expenses, the working capital balance falls below OFM’s recommendation. Staff will be bringing adjustments for FY15 to the Commission next year when more is known about the working capital balance and opportunities for additional revenues.

Staff recommends a revised FY13-15 biennium budget of \$29,592,752 and 142 FTEs.

Vice Chair Prentice asked if there were any questions. **Representative Hurst** replied he had a list of questions, but he would talk with staff later about them and not take up meeting time.

Representative Alexander asked where the state seizures money came from and what the projection was for that money to continue to be at that level. **Ms. Pittelkau** replied they came from undercover investigations that were done locally within the state and in conjunction with other law enforcement agencies. Staff expects to have about \$250,000 of that fund left at the end of FY15, which will help during the following biennium. **Representative Alexander** said his question was sustainability of that level of over \$2 million, whether this was just one time money

or was going to be a situation where staff continues to see that as a viable source of revenue for some time. **Ms. Pittelkau** replied it was one time. **Director Trujillo** explained the biggest portion of that fund was an internet gambling case in the state of Washington. He expected there would still be small amounts coming from other types of criminal cases, but it would not be anywhere substantial compared to what that one time case was.

Commissioner Chris Stearns asked if the reduction of money in card room licenses was a trend that was going to continue. **Assistant Director Griffin** affirmed, explaining that another house-banked card room (HBCR) closed on July 28, which drops the number of HBCRs to 52. At the September Commission meeting, staff plans to provide a summary of the financial statements of HBCRs. The preliminary information indicates quite a few of the HBCRs are having significant financial issues, and staff is projecting that a few more will close. Last month there were 53 HBCRs, and when staff looked back, they could not find that the HBCRs were at a level of 53 any time since 1999 when the pilot project started. So they are at an all time low. There have been two new HBCR applications this year, and only two in 2012. Along with the closure of the Drift On Inn, 104 HBCR employee licenses were lost. So it is not only the HBCR license that is lost, but also any other licenses they had, like a punchboard/pull-tab license, plus all the card room employees that go along with that HBCR license.

Vice Chair Prentice thought there were a couple of HBCRs in Renton that may be going. **Assistant Director Griffin** affirmed that was likely, adding that staff was monitoring them. **Vice Chair Prentice** said this was a phenomenon; that a lot of times new owners thought they just had to set up the tables and the people would come. But there is location, there is competitiveness, and there is the ease of getting there. Some projections have just been faulty. They are competing for the same groups and she thought most people had seen that phenomenon happen, which seems to be natural here. Vice Chair Prentice thought the state was probably about as saturated as it was going to be. People know where they want to go. **Ms. Pittelkau** asked the Commission to take action on the recommended revised budget of \$29,592,752 and 142 FTEs for the 2013-2015 biennium.

Vice Chair Prentice called for comments from the public; there were none.

Commissioner Gray made a motion seconded by **Commissioner Stearns** to approve the revised budget of \$29,592,752 and 142 FTEs for the 2013-2015 biennium. *The vote was taken; the motion passed with three aye votes.*

Legislative Update

a) **2013 Laws That Require Agency Implementation**

Ms. Hunter provided a quick overview of some of the bills that passed in the 2013 session that will require agency implementation. This overview was started last year as a way to keep the Commission informed of bills that were not gambling related, but may require action by the Commission. There were eight bills that have some new requirements for the agency. The proposed agency implementation was enclosed in a box on the memorandum to help highlight the action the agency would need to take.

- SB 5723 deals with enhanced raffles, which was discussed at the July meeting.
- SB 5751 requires an inventory of state fees, so every agency will need to provide to the Office of Financial Management (OFM) an inventory of the fees they have. That inventory will need to be updated and provided to OFM every two years. The Business Operations Division will take care of providing that information to OFM when asked.
- SB 5099 deals with fuel usage and impacts the Commission because its agents are assigned cars. A few years ago a bill was passed that required agencies to have a certain fuel usage by June 1, 2013. There were some amendments made to that bill this year to note that agencies were not necessarily able to meet that requirement at this point. As a law enforcement agency, there are some special needs that the vehicles must meet. The Business Operations Division has been working with the Department of Commerce on the practicality of converting the Commission's whole fleet of vehicles over to electricity or bio-fuels, but there are infrastructure changes that will need to be made.
- SB 5591 deals with confidential license plates and driver's licenses. The Commission has agents who work in an undercover capacity at times and they have an undercover ID. This bill requires the agent or officer to only use it for the limited time. When an agent leaves the agency, those undercover IDs need to be turned in. Assistant Director Harris will be responsible for making sure the Commission is complying with that requirement.
- SHB 1568 and Enhanced Substitute House Bill 1403 deal with the Business Licensing Services, which we are not currently using. The Gambling Commission is one of the named agencies in the bill. Assistant Director Griffin is the coordinator to make sure the agency is supplying information to the Department of Revenue.
- SB 5577 deals with whistle-blower protections. The Director will be making sure that staff knows Lisa Benavidez, the Human Resources & Training Administrator, is the agency's ethics advisor.
- SHB 1537 deals with veteran's preference. The law was changed to make it clear that veterans can claim a preference in public employment upon receipt of separation orders. They do not need to wait until they have actually been separated from the military. Lisa Benavidez in Human Resources will make sure that agency processes reflect that change.
- SHB 1093 was another law change dealing with state agency lobbying activities to make clear the personal liability and penalties. The Commissioners, Director, and staff are required to submit lobbying forms. There is a penalty if the agency Director knowingly failed to file the disclosure statements. The agency is also required to file the lobbying forms electronically, which staff has been doing.
- HB 1400 is an amendment to the Administrative Procedures Act. It allows staff to do things a little bit more electronically by service, as long as the parties agree. That is something the Communications and Legal Division will be following-up on so staff can get agreement from the parties, which should make the process a little quicker.

- HB 1203 deals with exempting personal information relating to children from public records requests. Staff always tracks public records exemptions; however, this bill will probably not impact the agency because it should not end up with records that the Department of Early Learning would have.
- 3ESSB 5034 is the statewide budget for 2013/2015.

Vice Chair Prentice asked if there were any questions; there were none.

b) 2014 Agency Request Legislation

Ms. Hunter reviewed the concept for the agency request legislation for 2014, which was introduced at the August Commission meeting. The Commission had asked staff to go ahead and continue to work on that concept, which they have been doing. A draft of the request to the Governor's Office was provided to the Commissioners. Ms. Hunter explained the packet will be due on September 15, which is a Sunday, so it will probably be due on the 16th. The September Commission meeting is the 12th and 13th, so if the Commission have a lot of new ideas that staff needed to incorporate, there would not be much time to do that by the following Monday. Staff is looking for Commission input, comments, and suggestions on how staff has addressed these various areas. The Commission may have ideas on information they think staff should include or that staff included but does not seem necessary. This is the part of the process where the audience changes as the process goes along. The audience for this is the budget analyst and the policy staff at the Governor's Office. The process is that staff puts in a request and waits to hear whether it has approval. Ms. Hunter thought of those staff as being more on the detail side, so there may be more numbers than if this were a different audience.

Language for the bill was not available at the July Commission meeting. Staff has worked on that and it can be found in two places: the easiest spot is on page 8, which is more of a summarized version. Staff recommends a bill that is one sentence long that says pursuant to a certain statute, it would allow the Gambling Commission to increase fees by up to 5 percent in FY15. Staff has been working with Assistant Attorney General Castillo on the language. The exact language can be found on the back of the memo, which is behind the legislative update tab. The possibility of having this introduced more through a budget proviso has been discussed and is something that will be worked on as staff goes through the process. But at this point, staff needs to start with a bill and see where those discussions go.

Commissioner Stearns asked if it would just be for one year. **Ms. Hunter** replied the fee itself would not end at that point, but that would be the point at which staff would be implementing it. If the fee is \$100 and it increased 5 percent, then it would be \$105, which it would stay at for subsequent years – it would not go back to \$100. The information in the agenda packet shows the current fees and what those fees would be with a 5 percent increase, which may change a little bit. The Business Office is taking another look at them for any possible math errors. Commissioner Stearns asked when this language would be introduced. **Ms. Hunter** replied it would be introduced in the 2014 session and take effect July 1, 2014. **Commissioner Stearns** asked if the authorizing language would also appropriate the money; if it would just happen. Ms. Hunter replied there would be a rule

making process. If the Commission approves having the agency request legislation submitted, because the rule-making process takes a few months, staff would bring the rules to the Commission at the October meeting with a request to file them for discussion. The Commission would then be able to discuss the proposed rule changes, suggest any changes, and then put the rules on hold until it is known what the results were from the legislative action.

The Governor's Office would have to approve it being done as agency request legislation, and then staff would work on getting a bill introduced and, if it is passed by the Legislature, staff would take the whole fee structure to the April 2014 meeting for the Commission to vote on.

Representative Alexander wondered if this fee increase just continued to magnify that downward spiraling closure of card rooms. He asked if it would just be putting an additional burden on what was already a very compressed industry that has a very low margin. His point was, as staff try to recover money to the Gambling Commission, it may result in actually reducing the overall revenue base. He asked if there was any kind of relationship staff was looking at between the reductions in the industry activities commensurate with the reduction in the requirements for enforcement in other operations that go with the cost of the Gambling Commission operations. **Ms. Hunter** replied that originally staff was hoping not to need to come forward with a fee increase for at least one more year. The Commission was really fortunate to receive the seizure funds because it probably meant about five years later for a fee increase than what would have been required had it not been for the seizure funds even though seizure funds have limited purposes for using them. There was a lot of consideration and a lot of reductions had already been made, which is part of what staff tried to highlight in this report. A logical question that may come back to the Commission would be whether more reductions could be made. Reductions have actually already been made and it is fortunate that people have not had to be laid off because the reductions have been based on attrition. Staff has a process that when someone leaves, managers do not just automatically sign a form to say they want to fill that position. The manager submits a justification form to the leadership staff who then meet to review the justification as to why that position may need to be filled. They look ahead at what is going on and decide if there is really a need to fill that position. For instance, if another house-banked card room has closed does a vacant enforcement position in that region need to be filled?

This state has been fortunate to not have very many gambling scandals, and nothing on a high level that would cause the public to say they do not trust the industry so they do not want to gamble in that industry. Leadership staff has done as much as they can on the expense side and now need to look at the revenue side. If the Commission was to receive more seizure funds and it was midway through this process, staff would absolutely be looking at that closely and seeing what could be done. Because of the way the process is set up, the Commission has the benefit of time, but on the other hand, Ms. Hunter did not think anyone here would feel that the Commission was doing the job that is expected of them if they wait another year or two years and do not pursue this.

Representative Alexander admitted he has never been a great promoter of fees and did not like to see them increase. The most beneficial opportunities for fee increases are when there are commensurate increases in services or benefits that go with the fee increases. He encouraged the staff and the Commission to look at whether there could be any opportunities to provide benefits or service enhancements that go with those fee increases.

Vice Chair Prentice said this had been a really good discussion. What occurred to her earlier during the budget discussion was that she wanted to remind the ex-officio members, in particular, that they would be working with people who think the state should not have gambling at all and who believe that they appropriate money to keep the Commission, but there is no appropriation. The Gambling Commission is self-supporting. She said it was clear that people were going to gamble and it does need to have regulations. She was always concerned when the Commission started cutting back because it is a regulatory and law enforcement agency, and they cannot enforce the law if there are not cops out there regulating things. She recalled there was the big scandal where an undercover person from out of state was paid to come in. It took months before they nailed the actual thing. Commissioner Prentice said she was at a meeting where she said that person deserved an Academy Award. That person was there and came over and told her that it took months for him to build up the trust. These are not simple things that are being discussed, and she would really count on the ex-officio members to sell that.

Representative Hurst said he appreciated the interesting perspective that Representative Alexander had. Representative Hurst said he was a fairly strong fiscal conservative and had a pretty sharp pencil when it came to expenditure of funds. But in this regard, when thinking of the mission of the Gambling Commission and the balance being struck here, he did not see it as just a service to the people in the industry. He saw the whole concept of the Gambling Commission as a service to the citizens of the state, as opposed to the industry itself. Vice Chair Prentice brought up a good point, which was that people are going to gamble, so it does not really matter if there are some decreases in licensees. There is the underlying problem that is always there, which is the whole purpose of this Act is to deter illegal, or organized crime, or other enterprises from either growing, flourishing, or even starting to develop. So maybe there are some decreases in licensees. He thought this was a time where the Commission had to be vigilant because there is legal gambling in this state, and if they were not careful and did not have the proper resources, a resurgence of what the state had years and years ago may happen, which is more illegal gambling. That was where the Commission had to be vigilant. He thought the Commission needed to be concerned not just about providing services or oversight to legal operations, but that as that market changes there was a growing opportunity for folks to start engaging in or coming in contact with illegal operations. And therein lies a larger public policy interest that, as a legislator, concerned him. Representative Hurst said he was kind of fearful that at some point in time they were making sure that people were gambling in licensed and legal operations, and not drifting away because maybe the Commission does not have the resources to keep an eye out for people that will certainly fill that void very quickly with illegal operations. He felt it was not just about the licensees, but about making sure that people were going to licensees. The state is going to have the same problem with the marijuana industry and I-502, which is a similar type of thing.

Vice Chair Prentice added that even the Vatican got struck with money laundering, so the Commission does have to be super-vigilant. She thanked everyone for an excellent discussion.

Commissioner Stearns thanked the Representatives for their comments, agreeing it was a very important issue. He asked if the statutory language directed the Commission to collect fees not less than an amount. He asked if Ms. Hunter had a sense of what an amount might be where the Commission could not carry out its statutory duties; where it would be in violation. He asked if there was a floor amount. **Ms. Hunter** replied she did not have a straight number. If what Commissioner Stearns was asking was it would be 130 employees where it could not be done anymore, or if it was this or that, but she thought the statute imposed a lot of things the Commission was supposed to be doing. Staff looked at that with nonprofits a couple of years ago because of a rule petition. Ms. Hunter said the Commission was very close to meeting that minimum number. Staff does look at the licensee levels and automation.

Director Trujillo recalled that the Financial Reporting Section at one time was composed of twelve people, but through time, technology, and change in how data was collected and submitted, that section is now down to two people. That is what leadership staff have strived to do. The Commission's mandate is very broad, but where the revenue comes from is fairly limited. So sometimes there is a disconnect between the overall mission, what staff are expected to do, and where the revenue comes from. Leadership staff has expended a great deal of time looking at this issue. Director Trujillo said he did not know if staff was a victim of their own empathy and sympathy that they did not seek to raise license fees sooner. When they started looking at this five or six years ago, staff knew the licensee load was going to decline, but they were sensitive to what the licensees were facing. The Gambling Commission is just one state agency amongst many government agencies that licensees have to work with. Staff purposefully did not come forward with license fee increases earlier because of that sensitivity, but the Commission is at a point now where staff is really not sure if it is going to drop below that threshold, that minimum point where it cannot, or is unable to, meet the mission. Because the Commission is there, this is a way of stemming the tide, so to speak, while the Commission has that discussion about where it wants to go. Director Trujillo pointed out the Commission would be having a strategic planning session soon, and staff has delayed finalizing the agency strategic plan for that reason. Director Trujillo did not have a simple answer for the Commission, but would say staff is not sure, which is the crux of the problem. Staff knows technology is marching forward and that there is much out there beyond Washington State. If the Commission were to drop below a certain point where staff would not be able to respond or react to federal legislation or additional state legislation, that could prove problematic not just for the Gambling Commission, but overall for the citizens of Washington. It is a topic that requires more discussion and staff wants to hear feedback from the Tribes, license holders, and people from the public who want to provide thoughts on the proposed increase. A fee increase is being requested because, at this point, it is the best course of action.

Ms. Hunter pointed out that in the agenda packet staff tried to address some of the things that have been touched on. The bottom of page 7 and the middle of page 8 look at the enforcement work that is currently being done. Page 6 addresses a risk-based approach to regulation. Staff is not applying 100 percent of the resources to 100 percent of the licensees or to the activities that the Commission is responsible for regulating. Different inspections are done that help uncover some things and staff rely on that. The list of regulatory changes is quite small compared to the changes that have been made in technology, so staff will be plugging in some of those things before the September meeting to give a better overview of what is being done.

As far as outreach, an article was published in the *Focus on Gambling* newsletter, which is mailed to commercial and charitable organizations and to anyone else who has asked to be added to the mailing list. A letter was e-mailed to about 660 people who have individual licenses in the state, as well as to the Tribal Chairs, Chairs of the Tribal Gaming Commissions, and the Tribal Gaming Agency Directors. A survey was also posted on the agency website.

One thing that staff is planning on doing as part of their normal work (which may get to the point that Representative Alexander made about what else can staff do to assist) is that, as the special agents are out doing their work, they will be talking with licensees about the potential fee increase and whether there are things they see that staff could be doing that would help the licensees more. A suggestion that the agents do not go to their facility anymore would not be considered. But as a business owner, they might suggest an area of training would help them or another area that would help staff, which would be considered. As staff moves forward, they need to be doing the best job they can with balancing all that is available. This is a very good opportunity for staff to get some direct input.

Currently there have been 22 responses to the online survey: one person or organization was in support of it; one was neutral; and 20 were not for it, which is about what Ms. Hunter would expect. Typically with customer surveys, the people who are upset are the ones who respond, not the people who are happy. Staff has heard from four bingo organizations, six card room employees, four class III employees, one house-banked card room, one manufacturer, three commercial pull-tab operators, and two charitable/nonprofit organizations. The licensing classes that have responded have varied, which has been good. There have been quite a few small class A licensees and some of the larger ones that responded. At the September meeting an update will be given on the rest of the responses that were received. Staff has also done more traditional outreach, which is the old-fashioned mail a letter. Letters have been mailed to the Recreational Gaming Association, the Washington Charitable and Civic Gaming Association, and the Washington Restaurant Association. Obviously, not everyone who has a restaurant has pull-tabs, but they are another good group to be made aware. Even if it means that staff receives negative input, they want to make sure they are out-reaching to stakeholders, and do not want to do anything that looks like the Commission is on its own little path, which is an important thing.

A fiscal note, which is part of the package that is required to be included, will be presented to the Commission at the next meeting. Staff estimates this would bring in about \$480,000 in revenue, so the fiscal note will reflect a number close to that. A decision package is also required to be done, which is a little different from a decision package where staff asks the Commission to add something to the budget.

At the beginning of the document, staff tried to explain more about the fees and how they are set, and give some examples of how the fees would change. It may help OFM and the Governor's Office staff to have that information, hopefully not in an overwhelming way but in a way that explains more about our fees. Ms. Hunter suggested the Commission communicate with her on any ideas they may have before the September meeting. She reminded them to communicate individually with her and to not send an email that cc'd the other Commissioners, which could violate the Open Public Meetings Act.

Vice Chair Prentice asked if there were any additional questions or comments from the public; there were none.

Approval of Minutes – July 11 Commission Meeting

Commissioner Gray made a motion seconded by **Commissioner Stearns** to approve the minutes from the July 11, 2013, Commission meeting as submitted. *Vote taken; the motion passed with three aye votes.*

ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS

New Licenses and Class III Employees

Assistant Director Griffin reported that, with the closure of Drift On Inn, there were 52 licensed and operating house-banked card rooms and no new house-banked card room applications were received in July. Staff did not notice any unusual items and recommends approval of all new licenses and class III employees listed on pages 1 through 16.

Commissioner Gray made a motion seconded by **Commissioner Stearns** to approve the new licenses and Class III employees listed on pages 1 through 16. *Vote taken; the motion passed with three aye votes.*

Request to Exceed Raffle Prize Limit – Gateway Fellowship of Poulsbo

Assistant Director Griffin explained the Gateway Fellowship of Poulsbo was asking the Commission's permission to raffle a completely rebuilt and customized show quality 1965 convertible Ford Mustang valued at \$72,000. Gateway Fellowship is a registered church in Washington that operates Gateway Christian Schools, which is a dual-campus multi-program preschool and K-12 schools serving the Kitsap Peninsula with approximately 500 enrolled students. They partner with parents to produce graduates with exceptional academic capability, demonstrated character development, social competency, and a strong leadership capacity. A member of their organization donated the car, which will be the only prize that the organization raffles on April 26, 2014. Gateway Fellowship holds a Class D raffle license through July 2014.

The proceeds of the raffle will augment the Gateway Christian School's financial aid program affording many Kitsap County youth the ability to participate in a private Christian education. Gateway Fellowship has worked with staff on an operational plan that is in accordance with Commission rules, and staff is satisfied there are sufficient internal controls that exist to safeguard the raffle prize and the proceeds from the raffle. No representatives from the Gateway Fellowship are present at this meeting. Staff recommends the Commission authorize Gateway Fellowship of Poulsbo the ability to exceed the \$40,000 raffle prize limit.

Vice Chair Prentice asked if there were any questions or discussion; there was none.

Commissioner Gray made a motion seconded by **Commissioner Stearns** to approve the raffle extension prize limit for Gateway Fellowship of Poulsbo to allow them to raffle off the restored 1965 Mustang. *The vote was taken; the motion passed with three aye votes.*

Defaults:

a) **Patrick W. Kincaid, Class III Employee, Revocation**

Ms. Hunter reported that Patrick Kincaid stole \$200, which he admitted to, and which was also recorded by surveillance. The Snoqualmie Gaming Commission revoked his license. The charges were sent by certified mail and regular mail. Mr. Kincaid did sign the certified mail card so staff knows he received the charges. Mr. Kincaid did not respond to the charges, so by not responding he has waived his right to a hearing and the Commission may enter a default order. Staff recommends the Commission revoke Mr. Kincaid's Class III certification.

Vice Chair Prentice asked if there were any questions; there were none. She asked if Mr. Kincaid or someone representing him was present; no one stepped forward.

Commissioner Gray made a motion seconded by **Commissioner Stearns** that the Commission revoke the Class III certification of Patrick W. Kincaid. *The vote was taken; the motion passed with three aye votes.*

b) **Kendall Carrier, Card Room Employee, Revocation**

Ms. Hunter reported that Mr. Kendall Carrier was previously a card room employee at Ace's Casino. While working there, Mr. Carrier stole a wallet, which he admitted to and it was also on surveillance. The casino terminated him and Mr. Carrier has a pending deferred theft charge. The charges were sent by certified mail and regular mail. The certified mail came back as undeliverable; however, the charges that were sent by regular mail did not come back. Staff presumes that Mr. Carrier received the charges at the last known address on file. He did not respond and has waived his right to a hearing. Staff recommends the Commission revoke Kendall Carrier's card room employee license.

Commissioner Gray made a motion seconded by **Commissioner Stearns** that the Commission revoke Kendall Carrier's card room license. *The vote was taken; the motion passed with three aye votes.*

c) Thuy K. Tran, Card Room Employee, Revocation

Ms. Hunter reported that Ms. Thuy Tran took about \$1,000 in black \$100 chips from the cage at Wizard's Casino and was terminated. Staff sent the charges by certified mail and they came back as signed by her. Ms Tran did not respond to the charges, and has waived her right to a hearing. Staff recommends the Commission to revoke Thuy Tran's card room employee license.

Vice Chair Prentice asked if Ms. Thuy Tran or anyone authorized to speak on her behalf was present; no one stepped forward.

Commissioner Gray made a motion seconded by **Commissioner Stearns** that the Commission revoke Thuy Tran's card room license. *The vote was taken; the motion was passed with three aye votes.*

Rule Up For Final Action

Staff Proposed Rule Change: Fingerprinting applicants

a) Amendatory Section: **WAC 230-03-060** - Fingerprinting of applicants

Assistant Director Griffin explained this was a staff proposal to update rules to match current practice. The new rule would clearly outline who staff will and will not fingerprint. It indicates that staff will fingerprint all substantial interest holders of commercial businesses and nonprofit charitable organizations who have lived out of the state in the last ten years or currently live out of the state. Staff will also fingerprint all applicants for individual licenses and any other substantial interest holders when staff has information to believe they do not qualify. Staff will not fingerprint applicants for recreational gaming activity permits, a class A commercial amusement game license, or agricultural fair permits because the risk is so small and recreational gaming activity and agricultural fair permits are one time activities. Since this rule change will bring rules into line with current practice, staff sees minimal impact to licensees and minimal additional costs upon implementation. The rule change will strengthen the regulatory program by making it clear to applicants and licensees who will be fingerprinted and what the expectations are. Staff recommends final action with an effective date of 31 days from filing.

Vice Chair Prentice asked if there were any questions; there were none.

Commissioner Gray made a motion seconded by **Commissioner Stearns** to adopt the mandatory change to WAC 230-03-060, fingerprinting of applicants, to take effect 31 days from filing. *The vote was taken; the motion passed with three aye votes.*

Rule Up For Discussion

Staff Proposed Rule Change: Requiring landlords of house-banked card rooms to undergo background checks

a) Amendatory Section: **WAC 230-03-061** – Fingerprinting of applicants

Assistant Director Griffin explained this staff proposed rule change was to bring current rules into compliance with RCW 9.46.070 and was just for discussion. RCW 9.46.070(7) states that the Commission shall require fingerprinting and national criminal history background checks on any person holding an interest in any building used for a gambling activity. The Commission must also establish rules to delineate which persons named in the application are subject to national criminal history background checks. The proposed rule is consistent with the statute by requiring persons holding an interest in the building used for gambling activity to undergo background checks by submitting fingerprints. The rule outlines persons who hold an interest to include those who have 50 percent or more ownership in the building of a house-banked card room, or those who own less than 50 percent in the building but have actual or potential influence over the gambling activity. The rule would apply to house-banked card rooms licensed after January 1, 2014, and for existing licensees when they have a change of location or a change in the persons holding an interest in the building.

Staff anticipates minimal costs for implementation because the number of house-banked card room applications being received is very small; only two new applications in 2012 and two new applications to date in 2013. Existing licensees would only be impacted if they change locations, which rarely happen, or if there is a change of the person with an ownership interest in the building. Currently licensees would be required to submit new and updated information in regards to a lease, but if there was a change in the landlord at that time, staff would proceed forward, which occurs very infrequently. At the request of the licensees at the May study session, staff developed a draft notification letter for licensees to provide to their landlords about this new requirement, which was sent to the house-banked card room licensees in June. In July, the format was changed to more of a question and answer format, and staff has not received any comments. Through the study session comments, the Recreational Gaming Association was still analyzing it and had not had a chance to respond back. Some of the questions received from licensees at the study sessions in the past few months were included in the question and answer format in the document for the licensees to provide to their landlords. To date staff has not received any statements in support of or opposing this rule change.

Commissioner Gray said she thought this was over the top and did not see that it was important or necessary. Fingerprinting is not done on landlords of tattoo parlors, the *deja vu*, and things like strip joints. She asked if this rule was in response to legislation.

Assistant Director Griffin replied the rule was to bring Commission rules into compliance with the current RCW.

Representative Alexander asked which RCW that was.

Vice Chair Prentice asked Representative Hurst, as the Commission's law enforcement person, if there had been a vast improvement in the technology for sharing the fingerprinting nationwide that did not used to exist a few years ago. **Representative Hurst** affirmed there has been. He thought the reason for some of the RCW changes was because of the ability to do the interaction among a lot of different agencies fairly quickly. There has been more of a push for this type of background checks in a ton of different areas; everything from daycare centers to just about anywhere. It has really become kind of the gold standard. There are probably very few areas that have not been covered. This kind of parallels with what has been happening in the industry when looking at background checks that are being done and how quick and efficient they are. Most of these are funded by the people being fingerprinted, and is just considered the cost of doing business. It is almost universally required with anything that has to do with kids of any kind, anywhere. In areas where the government has not done it, people in the industry already are. So the state has actually been playing catch-up to some degree. For instance, in this particular industry, if someone was able to discover something ahead of time, pro-actively, about a person's background that led to looking to another state, and saw an egregious level of violations where a person was using a false name, it was significant. Representative Hurst said he had spent a lot of years in law enforcement, and it was very easy, especially today, to create a whole new identity around a person. But the one thing that people cannot change is their DNA and their fingerprints. So fingerprinting is a pretty easy way to have something done where maybe there is a really bad player who has a new name in Washington State. It saves a great deal of enforcement action by having that done.

Vice Chair Prentice recalled having this discussion in 1954 when she graduated from nursing school and was fingerprinted when she took a job in California with the county, which was a whole new idea at that time. Since then, she had been asked to drive in a presidential motorcade and they wanted to check on her and just like that it was okay because she had a good clean record. It has been to her advantage to have her fingerprints in the system. But, she has also said that, as with Social Security numbers, a person can only be one person at a time, and particularly when talking about so few people and it was from this day forward, and staff was not going to go back. She said staff was trying to be consistent with the law, which was a nice idea.

Representative Hurst agreed. He said it has been so easy to steal identification. He could order a driver's license from China in someone else's name that was almost as good as a Washington driver's license, and probably have it within five days. He said he could also get passports to try to hide his past, and he could get everything within a very short period of time with the technology that exists today. But the one thing that would make that worthless would be simply checking his fingerprints, because that was quickly done through the databases and it saves enforcement actions later with different types of operations.

Assistant Director Griffin pointed out there was no vote required at this time, it was just up for discussion this month.

Vice Chair Prentice asked if there were any more comments; there were none. She called for public comments.

Mr. Victor Mena, Chief Operating Officer for Washington Gold Casinos, said he wanted to make a couple of points on this rule. Washington Gold Casinos, as an organization, had no real position on this rule at the moment. They had some questions and some concerns that do have some far-reaching impacts that maybe sometimes are not always seen. First, the RCW sounds like it is fairly general in scope and it does not specify just house-banked card rooms. There are other elements in gaming that probably should fall under this as well. Mr. Mena said the Commission might need to look at bingo. As a bingo is a charitable/nonprofit, the landlords of that property could also be somewhat tied as well, if that was the concern. He said he just raised that as a point. There are lots of pull-tab licensees who carry gaming licenses, and there are other issues of that nature. So there is not just the card room industry to look at. The other point Mr. Mena wanted to make was to ask what a disqualifying element was in the licensing process for what a landlord would get disqualified for. That has not really been discussed openly. What causes that triggering event? Personally speaking, he thought there were a lot of great issues to talk about there because there should be people that should not be allowed to do some of these acts, or participate in some form of gaming, and he saw an absolute benefit from that. He asked how that process works and what the interpretation was of that. Mr. Mena thought that was something that could be talked about as well. He thought this was a great topic to talk about and review. He saw the benefits of it. He operates ten card rooms and so the likelihood of his having this rule come into play was probably more likely than most. So, one of the concerns he had was that some landlords of property – strip malls for instance – are large conglomerates, and there could be some individuals who live who knows where that have those ownership interests. So trying to get hold of some of those people will not always be the easiest thing either. There are some restraints that probably will need to be looked at case-by-case. The other concern he had was let's say they are the landlord of a strip mall and is looking to sell their property as an investor. This could possibly limit who that person could actually sell to, depending on what a disqualifying element was. So that could make it more cumbersome for that person to even sell his own property. These are some items that probably should be discussed. Mr. Mena was not saying there should always be the point to stop the process, but just a lot of different things could snowball with this type of thing.

Representative Hurst said it seemed to him that common sense would dictate that a person would not want somebody owning one of those operations, or even owning the property, if they had a history in another state of something like massive cheating at gambling. A person would certainly not want to be associated with anybody like that, but he thought that anything that was more de minimus in nature – what was the intent of what the Gambling Commission staff might do? What would they think would be the types of things, or what would be the scope that staff would use? Representative Hurst said he would think it would only be for the most egregious types of obvious conflicts of interest. **Mr. Mena** agreed. **Director Trujillo** responded that, generally speaking, that was exactly the discussion that staff had: they would use a reasonable person's perspective or approach. He thought that what Mr. Mena was looking at and what it looked like to staff was not really laid out anywhere. Staff may have a good idea of what it looks like to them and how it would be applied, and it would be unique on a case-by-case basis. But, when it came to suggesting that to Dolores Chiechi or Victor Mena, it did not provide very much reassurance because

they still do not know what that looks like. **Representative Hurst** asked if Mr. Mena was just looking for specificity. **Mr. Mena** replied he believed so, that it helps out in the process. He was one of the stakeholders that made the request to have a letter to present to landlords because his concern was that, if this rule passed, what was the communication element that would get to the landlords in this process. Without having some formal statement by the Commission that we could actually deliver to our landlord so it does not seem like this was his request. Mr. Mena said there were a lot of different things that could be discussed.

Director Trujillo explained that because there had been some discussion on this rule proposal, it was decided to have it up for discussion before the Commission at this meeting. It may have impacts that staff and operators were not seeing. It was planned to be up for final action at the September meeting, but the Commission can certainly hold it over to October for final action to have continued discussion and so staff can actually ferret out some of that specificity.

Commissioner Gray suggested that the rule proposal not be up for final action in September and staff can determine what disqualifies a person. The current proposal does not say if it would just be a gambling issue that disqualifies a person or if a DWI would disqualify a person. **Mr. Mena** agreed it was hard to determine in the current proposal. There could be lots of different elements and it depends on each state because each state has different class C felonies. The state of Washington is the only state to have a class C felony as an end user in online gaming. But that could possibly be a disqualifying element because it would be a felony if it was in another state. **Representative Hurst** agreed.

Commissioner Gray added another concern she would like to look at was what to do with corporations that own land and are landlords. **Mr. Mena** agreed, pointing out those were very difficult to get fingerprinted because there are board members and board of directors. Although not impossible, it would probably be a little cumbersome.

Vice Chair Prentice commented there were actually places in her neighborhood where they do not even know who owns what and they are hoping to develop it. Then there are the out of state licensees which would make things a whole lot more complex to do. She said this was the beginning of a very good discussion, which she knew was going to be continuing. The more people think about it, the better it gets. She thanked Mr. Mena for being willing to lay it all out for the Commission.

Director Trujillo explained there were a couple options for next month. The discussion can continue with staff and the stakeholders and not have it before the Commission, or it can be brought before the Commission in September as a discussion item. **Vice Chair Prentice** said she would like for staff and the stakeholders to discuss it and just update the Commission on their progress. **Director Trujillo** replied that staff would do that.

PUBLIC MEETING

Other Business/General Discussion/Comments from the Public

Vice-Chair Prentice opened the meeting for other business, general discussion, and comments from the public.

Ms. Dolores Chiechi welcomed Representative Hurst to the Commission. **Vice Chair Prentice** thanked Ms. Chiechi. She pointed out there were still some openings available which the Commission hoped would be filled with “the right people.”

Representative Alexander congratulated Director Trujillo on his promotion. He said he was not at the last meeting when the Commission made the decision to promote him to Director. Representative Alexander said he thought that was a very wise and good decision; although a lengthy process. **Director Trujillo** thanked Representative Alexander.

Executive Session to Discuss Pending Investigations, Tribal Negotiations and Litigation

Vice-Chair Prentice called for a break at 12:25 p.m. She announced that the Executive Session was expected to last approximately one hour and at the end of the executive session the public meeting would be resumed solely for the purposes of adjourning. At 12:40 p.m. the Commission went into an Executive Session to discuss pending investigations, tribal negotiations, and litigation.

Adjourn

Vice-Chair Prentice adjourned the meeting at 1:00 p.m.

Minutes were submitted to the Commission for approval by:
Gail Grate, Executive Assistant