

Commission Meeting Minutes

APPROVED

Location of Meeting:

Red Lion Hotel Olympia
2300 Evergreen Park Drive
Olympia, WA 98502
(360) 943-4000

Date and Time of Meeting

Thursday, February 12, 2015
9:30 a.m.

✓ **Indicates Commissioners and Ex Officio Members Present.**

Commissioners

- ✓ Chris Stearns, Chair
- ✓ Bud Sizemore, Vice-Chair
- ✓ Kelsey Gray, PhD.
- ✓ Julia Patterson
- ✓ Ed Troyer

Ex Officio Members

Senator Steve Conway
Senator Mike Hewitt
Representative Christopher Hurst
Representative Bruce Chandler

Staff

David Trujillo, Director
Mark Harris, Assistant Director – Field Operations
Tina Griffin, Assistant Director – Licensing Operations
Julie Lies, Assistant Director – Tribal & Technical Gambling
Amy Hunter, Administrator – Communications & Legal
Callie Castillo, Assistant Attorney General
Michelle Rancour, Executive Assistant

- PUBLIC MEETING -

Please note, agenda items may be taken out of sequence at the discretion of the Chair.

Welcome:

Chris Stearns, Commission Chair

Chair Stearns called the meeting to order at 9:45a.m.

License Fees in Today's Environment:

Tina Griffin, Assistant Director

Remaining slides from January

The Commissioners reviewed the fee structure with this question in mind, "If we were to create a fee structure today, what would it be?" **Vice-Chair Sizemore** had suggested this review at the November meeting. Assistant Director Tina Griffin and Licensing Operations staff has done a great job pulling together a lot of data in a short period of time. Thank you!

The Commissioners started the fee structure discussion at their January meeting. At this meeting, **AD Griffin** went through the remaining slides from January.

The Commissioners asked a variety of questions during the presentation, and it was a thorough discussion.

AD Griffin explained the various license types and how the numbers of licensees, gross receipts and fees have changed since 1996.

Information from the presentation:

Distributors' gross receipts have decreased.

The number of Class A distributors have increased by 43 percent, and this rise was due to an increased number of proprietary games, attributed mainly to house-banked card rooms.

Manufacturers had an increase of 23 percent in number of manufacturers and a big increase in gross receipts also. Manufacturers pay additional fees beyond license fees, including: ID stamp fees, Quality Controls, Equipment Review Fees, Audit Fees, and Manufacturer Representative Fees.

New topics covered at February meeting:

Taxes on gambling activities:

- State B&O taxes paid to Department of Revenue.
“Contests of Chance” – State B&O is 1.5
Tax collected for problem gambling is 0.13 percent for “contest of chance” if annual gross receipts are more than \$50,000.
- Local Gambling Taxes – Went through the various rates and how the total taxes paid have changed over time. High was in 2003 at \$43 m.; and \$28 m. in 2013.

Challenges with the current schedule:

Business Licensing Services (BLS) Serves over 40,000 businesses monthly. Businesses that use BLS receive many licenses from many agencies, pay one fee and then post one license.

The Commission has been working for several years to try to use BLS. There are some obstacles:

- We have 194 different license fees.
- Upgrades/downgrades during the year (With BLS, they only have contact with the licensee once during the year; upgrades/downgrades mean more contacts than that).
- We allow two-part payments. BLS is set up to only have one payment per year.
- At times, BLS issues licenses for more than 12 months. By law, the Commission could not issue licenses for longer than 12 months. In 2012, staff worked with the legislature and had our statute changed so that the Commission can issue licenses for more than 12 months upon transition to BLS. This removed that obstacle.

- BLS is currently updating their computer system significantly. Department of Revenue is not ready to bring the Commission on right now.

Commissioner Patterson asked what the downside of asking licensees to pay at the end of year, rather than trying to guess at the beginning of year. **Director Trujillo** explained that the hardest year would be the first year, as we would likely not have sufficient operating revenue during that time. **Commissioner Patterson** said she would really like to look at this more.

The total penalties for exceeding license class - \$44K. Commissioners discussed that collecting these amounts are time consuming for staff. The time required may outweigh the amounts received. Director Trujillo pointed out the additional cost of loss of goodwill from licensees as staff is collecting the penalties. **Commissioner Patterson** thanked Vice-Chair Sizemore for bringing this topic up. **Commissioner Gray** said the fee schedule is not only complicated, it was confusing. **Commissioner Troyer** pointed out that the resources can go to better things. **Chair Stearns** said the Commissioners were open to change, and called for public comment.

Comments from the public:

Victor Mena, WA Gold Casinos said he saw some emotional testimony last month from some smaller Pull-tab operators. He wanted to help carry their banner this month. The smaller operators probably spend three times more getting reports in, than Commission staff spends in policing this. It is really not possible to do it by hand. Taxation of the game is “punitive” because it is on gross sales. Most municipalities are tracking on gross, not net. He thought it was because it was easier to track/audit gross, rather than net. Calculating the net means you are auditing how many winners there were. Mr. Mena did not know what the solution would be, but wanted to help explain the problem.

Vice-Chair Sizemore said it would be helpful in the summer or fall to understand licensees’ history of working with the legislature on the tax structure and we can determine how much we can weigh in on this.

Mr. Mena stated the nature of the game makes it hard to audit. There are 1,100 licenses. If there were 20 games per month, the enormity of the task was huge.

Ken Koski, a long-time business owner from Shelton, stated it was easy to manipulate gross receipts. A licensee can pull a game early or leave it up longer. He has a blue print and suggested it would be very easy – One fee for background check based on the number of principals. If you have three principals, we pay for three each year. Issue one gambling license, which would allow all gambling activities. Eliminate all classes. Instead of a fee, have a tax, that’s what the fees are anyway. Tax would be based on gross minus prizes. This would: Eliminate activity reports, no two-part payments. Help with cash flow. It would give enforcement staff monthly information, which would be more current. Department of Licensing could handle the licensing.

Mr. Koski suggested two ways to meet budget problems:

- a) Increase revenue or decrease your work.
- b) Introduce a “house cleaning” bill to legislature.

Everything has been adjusted, but not unlicensed raffle thresholds.

Monty Harmon, Evergreen Gaming, spoke more about pull-tabs and gross versus net sales. He stated one thing that was hurting everyone was the decrease in number of licensees. He suggested, if there could be an opportunity for activities that are already legal under RCW and would only take WAC changes. Mr. Harmon said he hoped the Commissioners would look at this. This should increase revenues. One idea: defining betting areas, for example. This would be a rule change. Mr. Harmon said he may possibly bring some rule ideas forward to do this.

Chair Stearns said he was also interested in hearing about any changes would/could decrease staff’s work.

Diane Sperry, WOW Distributing, wanted to stress the challenges operators have with complying. She thought the fee structure was punitive and it could encourage under-reporting when calculations are based on “missing tickets,” etc. Many operators do not have computers and the technology that we are so used to. It would be fitting to have fees based on actual sales/actual performance, like it is for other areas. She wondered if most of the costs to the Commission were actually from smaller operators because not as sophisticated, but are paying less in fees because they have less in receipts. Ms. Sperry was not sure how to articulate this, but not sure the current system made sense. Even though she works for a distributor, she is wondering if more of the fees should come from the distributors and manufacturers, rather than operators. This is a wonderful topic to discuss to see if this served the industry as a whole. **Ms. Sperry** said perhaps there could be flat fees for some things and other fees based on actual performance, rather than the ranges. She recommended the classes be eliminated.

Chair Stearns asked to review other states; North Dakota, Mississippi and Virginia, and how they operate and regulate pull-tabs. This led to a brief discussion about how each state was different, how they regulate, how they are funded, whether they allow commercial operators to have pull-tabs or only charities, whether they can pull games, etc.

Executive Session to Discuss Pending Investigations, Tribal Negotiations, and Litigation – Working Lunch

MEETING IS ANTICIPATED TO RESUME AT 1:30 P.M.

Meeting called back to order at 1:50 pm

Director’s Written Report: *presented by David Trujillo, Director*

Director Trujillo explained that, like last month, he was switching to a written report, rather than all oral. The first item he covered were the five staff we said goodbye to as of Jan. 31, as

part of the layoffs. He explained that these were hard goodbyes. **Commissioner Patterson** said she would like more information about how these layoffs will impact our ability to enforce the law.

Staff Recognition:

Director Trujillo read from the 2014 Accomplishments memo. **Chair Stearns** said he really appreciates staff's work. It was an honor to be here, and he really appreciates all of staff's work. He also thanked the Attorney General's Office.

License Fees in Today's Environment Part II: *presented by Assistant Director Tina Griffin, Assistant Director Mark Harris, and Agent-in-Charge Rick Herrington.*

First, **Assistant Director Tina Griffin** went through the various works that *Licensing* performs. This part of the presentation was to explain what we do with the fees we receive. Next **Assistant Director Mark Harris** explained our *regulatory programs* and the work we perform for both licensed and unlicensed activities. He covered our various inspections: spot inspections, compliance modules, underage inspections, record inspections or financial inspections/audits, and general assistance provided to licensees, the public and other law enforcement agencies.

Staff spent quite a bit of time with "*General Assistance*" (11,000+ hrs. in 2014) – from licensees, public, Law Enforcement agencies, government agencies. Staff received questions about whether an activity is legal or not.

Vice-Chair Sizemore asked if this was time well spent upfront. **AD Harris** explained yes, it can take only a few hours to answer a question, but if done illegally, the investigation can take a couple of hundred of hours.

Training and Education Provided – **AD Harris** discussed training staff (SA Danny Lisa) have presented at CJTC for the past 10 years to new hires. Had a law enforcement officer who had received the training who was able to spot a gambling crime and was able to investigate it based on the training from Special Agent Lisa Saila.

Agent-in-Charge Rick Herrington of the Criminal Intelligence Investigations unit provided a summary of hours spent investigating various illegal activities this unit investigates.

Comments from the public:

Victor Mena, WA Gold Casino's - Wanted to make sure everyone knew that HBCR's should include CRE's, as both contribute fees.

George Teeny, Owner HBCR's in LaCenter – Wanted to make sure everyone understood the receipts listed are net.

Chair Stearns asked if there were any further comments from the public, there were none.

Chair Stearns called for break at 3:15 p.m.

Chair Stearns called the meeting back to order at 3:35 p.m.

Legislative Update: *presented by Arlene Dennistoun, Staff Attorney*

a) New Bills Since January Commission Meeting (Commissioners may take a position on these bills.)

Staff Attorney Arlene Dennistoun reported that almost all of these bills are now dead. Ms. Dennistoun focused on the ones that are still alive & reviewed those with the Commissioners.

- *HB 1114 – Internet Poker - Fiscal Note for HB 1114 (Dead)*
- *HB 1301 / SB 5284 – Classifying fantasy sports as contests of skill (Dead)*
- *HB 1553 – Encouraging certificates of restoration of opportunity*
(Alive, RCW 9.46 was amended out, so won't impact our licensing process now)
- *HB 1520 – Requiring a finding of guilt prior to the forfeiture of private property (Dead)*
- *SB 5388 / HB1801– Concerning child support (Dead)*
- *HB 1371 – Administrative procedures that promote accountability, transparency, and economic relief (Dead)*
- *HB 1047 / SB 5020 – Continuity of operations (Alive)*
- *HB 1537 / SB 5399 – Concerning state liquor control board enforcement officers*
(Alive, staff is working with Liquor Control Board (LCB) and prime sponsor on an amendment, so LCB officers would not enforce 9.46. As worded, the bill includes "Title 9," which includes 9.46. LCB has said they didn't/don't intend to enforce the gambling laws.)
- *SB 5686 - Addressing adjudicative proceeds involving a state agency that is also a party to the proceeding (Dead)*
- *HB 2001 – Amusement games (Alive)* The proposed Bill went out of Committee with amended language, which matched the original language we had suggested when asked about the concept. This is not agency request legislation.

Online Gambling Report: *presented by Agent in Charge Rick Herrington*

Agent in Charge Rick Herrington explained that in October 2013 and January 2014, the Commissioners held two Strategic Issues Discussions. As part these discussions, they asked staff to prepare a report, summarizing how intranet (within a state's borders) gambling was working in the three states that have allowed it: Nevada, New Jersey and Delaware. The two biggest issues have been liquidity (having enough people to gamble) and geolocation (making sure people are really within each state's borders). **Commissioner Gray** commented she did not want to lose this. It may be good for the state, but we do not know yet.

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

New Licenses and Class III Employees *presented by Assistant Director Tina Griffin*

Assistant Director Tina Griffin explained there were currently 49 licensed house-banked card rooms operating. Ms. Griffin requested the approval of licensees listed on pages one through sixteen.

**Vice-Chair Sizemore moved to approve.
Commissioner Troyer seconded.
Motion passed 5:0**

Defaults *presented by Deputy Director Amy Hunter*

a) Dianna Breitkopf, Class III Certification, Revocation

Deputy Director Amy Hunter explained that on August 7, 2014, the Muckleshoot Gaming Commission revoked Dianna M. Breitkopf's certification because she committed a theft of \$100. Staff recommends her certification be revoked.

**Vice-Chair Sizemore moved to revoke.
Commissioner Gray seconded.
Motion approved 5:0**

b) Ronald Bruneau, Card Room Employee, Revocation

Deputy Director Amy Hunter explained that Ronald Bruneau under-reported \$380 in tips between July 8, 2014, and July 15, 2014.

Commissioner Troyer asked if Mr. Bruneau were still working. **Deputy Director Amy Hunter** said she did not think he was currently working.

**Vice-Chair Sizemore moved to revoke.
Commissioner Gray seconded.
Motion passed 5:0**

- PUBLIC MEETING -

Approval of Minutes – January 8 – 9 Commission Meeting

**Vice-Chair Sizemore moved to approve the minutes from January 2015.
Commissioner Patterson seconded
Minutes approved 5:0**

Other Business/General Discussion/Comments from the Public

None

Adjourn

Chair Stearns adjourned the meeting at 4:23pm.

Commission Meeting Minutes

APPROVED

Location of Meeting:

Red Lion Hotel Olympia
2300 Evergreen Park Drive
Olympia, WA 98502
(360) 943-4000

Date and Time of Meeting

Friday, February 13, 2015
9:30 a.m.

✓ **Indicates Commissioners and Ex Officio Members Present.**

Commissioners

- ✓ Chris Stearns, Chair
- ✓ Bud Sizemore, Vice-Chair
- ✓ Kelsey Gray, PhD.
- ✓ Julia Patterson
- ✓ Ed Troyer

Ex Officio Members

- ✓ Senator Steve Conway
- ✓ Senator Mike Hewitt
- ✓ Representative Christopher Hurst
- ✓ Representative Bruce Chandler

Staff

David Trujillo, Director
Mark Harris, Assistant Director – Field Operations
Tina Griffin, Assistant Director – Licensing Operations
Julie Lies, Assistant Director – Tribal & Technical Gambling
Amy Hunter, Administrator – Communications & Legal
Callie Castillo, Assistant Attorney General
Michelle Rancour, Executive Assistant

- PUBLIC MEETING -

Please note, agenda items may be taken out of sequence at the discretion of the Chair.

Welcome:

Chair Stearns called the meeting to order at 9:30 a.m.

Chris Stearns, Commission Chair

X2 Tribal Compact Amendment: *presented by Deputy Director Amy Hunter*

Deputy Director Amy Hunter explained the reason for the X2 Tribal Compact Amendment and turned the meeting over to Chair Stearns for the official vote. The commissioners and ex officios approved the compact amendment by an 8:1 vote.

Three people testified about the compact amendment:

Leonard Forsman, Chairman of the Suquamish Tribe – in support. Everyone has been pretty well-informed about the compact amendment. This will allow incremental, modest growth.

T.J. Greene, Sr., Chairman, Makah Tribe -- in support. Makah Tribe is a non-gaming tribe. Some of the things they can do out at Neah Bay would not be possible without the gaming

revenue from leases. The modest expansion is important. If it expanded too much, it would water down the value of the leases.

Maureen Greeley, Evergreen Council on Problem Gambling – neutral. The Council would not exist without the gaming industry and receives contributions from tribes, the lottery and recreational gaming. We live in a state where we get a lot of support, yet we do not have enough funding. Many of the tribes have great programs.

Several of the commissioners and ex officio's made individual comments.

Senator Mike Hewitt: Sees this as an issue of fairness. We also need to consider how the Gambling Commission is going to be funded as we move forward. When he was first elected in 2000, about 20 percent of the net receipts were from tribal gaming. Today it is about 80 percent. He has seen the good work that the tribes have done. He doesn't have a problem with the number of machines. His problem was that this amendment is in perpetuity. He said he has asked the legislature to appropriate \$3 million to the Gambling Commission for the next biennium. He said he cannot go back and make this request a second time. He commented on the special meeting that was held in SeaTac in June to discuss the commission's budget. He said there are two ways to address the budget: expenses and revenue. He felt that this was a revenue opportunity.

Senator Steve Conway: Shares Senator Hewitt's concern about the Gambling Commission's funding. He mentioned the previous sweeps from the gambling revolving account and said he believed restoring the funds to the Commission was a good idea. He said he has confidence that the stakeholders will step up and help solve the financial problems. He said the issue before them though is the compact. He sees this as being a "market driven" amendment. He said there are deterrents to adding too many machines. Nothing is ever in cement.

Commissioner Troyer: In the last six months, they have heard a lot about the Gambling Commission's budget. There were 15 recent layoff notices. He believed the right people to address this are those in the room. Commission's mission is statewide. We are close to a teetering point. Commissioner Troyer said as an enforcement agency you can only do so much for so long.

Representative Bruce Chandler: No comments.

Representative Christopher Hurst: Shares the concerns about the Commission's funding, but is not sure he sees a nexus with the compact amendment before them. He likes the concept. He respects the government to government process that was used here. Washington is a model state. We look at California's relationship with their Tribes and we don't want to be like them. The gambling model will likely become a model for how the state addresses other serious issues. Representative Hurst made a motion that the Commission approves this compact. He said this is not been a slam dunk and has not been easy.

Chair Stearns: He is in favor of the amendment. He wanted to thank the Governor's Office and the Attorney General's Office for their work on the amendment, along with staff's.

Representative Hurst made a motion that the compact be forwarded to the Governor.

Vice-Chair Sizemore seconded the motion.

Commissioner Patterson requested a show of hands, after the oral vote.

Chair Stearns requested a roll call vote. The final vote was eight "yeas" and one "nay."

The next step from here, the compact will next go to the Tribes for signature and then to the Governor for his consideration and final execution of the documents. From there the compact will go to the federal Department of Interior for review. The last step will be publication in the federal register.

Other Business/General Discussion/Comments from the Public

There were none.

Adjourn

Chair Stearns adjourned the meeting at 10:30 a.m.