

ASSEMBLY BILL NO. 213—COMMITTEE ON JUDICIARY

FEBRUARY 25, 2011

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to gaming.
(BDR 41-163)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to gaming; authorizing the Nevada Gaming Commission to adopt regulations relating to the issuance of a preliminary finding of suitability; revising provisions relating to investigations and the initiation of complaints by the State Gaming Control Board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Nevada Gaming Commission to require a finding of suitability of a person under certain circumstances. (NRS 463.162) **Section 1** of this bill authorizes the Commission to adopt regulations relating to the issuance of a preliminary finding of suitability.

Existing law requires the State Gaming Control Board to make investigations and to initiate a hearing by filing a complaint with the Commission if the Board is satisfied that a license, registration, finding of suitability, pari-mutuel license or prior approval by the Commission of any transaction for which approval was required or permitted should be limited, conditioned, suspended or revoked. (NRS 463.310) **Section 2** of this bill clarifies that the Board may, after an investigation, initiate a hearing by filing a complaint with the Commission if the Board is satisfied that a person or entity which is licensed, registered or found suitable or which previously obtained approval for which Commission approval was required or permitted should be fined.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commission may, with the advice and assistance of the Board, adopt regulations governing the issuance of a preliminary finding of suitability to a person.

2. The regulations adopted by the Commission pursuant to this section must:

(a) Provide that a person must demonstrate to the satisfaction of the Commission that the person has the suitability to become involved as a licensee but has not otherwise entered into a position or transaction which would require licensing pursuant to this chapter.

(b) Provide that a preliminary finding of suitability expires not more than 2 years after issuance by the Commission but may be renewed for additional periods of not more than 2 years as the Commission deems appropriate.

(c) Set forth standards for a person to be issued a preliminary finding of suitability that are as stringent as the standards for a person to be issued a nonrestricted license.

(d) Establish the fees for a person to apply for, to be investigated for and to hold a preliminary finding of suitability.

(e) Provide that no person may be issued a preliminary finding of suitability unless the person agrees that, for the duration of the period in which the person holds the preliminary finding of suitability, the person will not seek or in any way engage in a corporate acquisition opposed by management.

(f) Define "preliminary finding of suitability" as the term is used in this section.

3. As used in this section:

(a) "Acquire control" or "acquiring control" means any act or conduct by a person whereby the person obtains control, whether accomplished through the ownership of equity or voting securities, ownership of rights to acquire equity or voting securities, by management or consulting agreements or other contract, by proxy or power of attorney, by statutory mergers, by consummation of a tender offer, by acquisition of assets, or otherwise.

(b) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person.

(c) "Corporate acquisition opposed by management" means an attempt to acquire control of a publicly traded corporation that is



1 *an affiliated company by means of a tender offer that is opposed*
2 *by the board of directors of the affiliated company.*

3 (d) *“Tender offer” means a public offer by a person other than*
4 *the issuer to purchase voting securities of a publicly traded*
5 *corporation that is an affiliated company, made directly to security*
6 *holders for the purpose of acquiring control of the affiliated*
7 *company.*

8 (e) *“Voting security” means a security the holder of which is*
9 *entitled to vote for the election of a member or members of the*
10 *board of directors or board of trustees of a corporation or a*
11 *comparable person or persons in the case of a partnership, trust,*
12 *or other form of business organization other than a corporation.*

13 **Sec. 2.** NRS 463.310 is hereby amended to read as follows:

14 463.310 1. The Board shall make appropriate investigations:

15 (a) To determine whether there has been any violation of this
16 chapter or chapter 462, 464, 465 or 466 of NRS or any regulations
17 adopted thereunder.

18 (b) To determine any facts, conditions, practices or matters
19 which it may deem necessary or proper to aid in the enforcement of
20 any such law or regulation.

21 (c) To aid in adopting regulations.

22 (d) To secure information as a basis for recommending
23 legislation relating to this chapter or chapter 462, 464, 465 or 466 of
24 NRS.

25 (e) As directed by the Commission.

26 2. If, after any investigation the Board is satisfied that ~~it~~ :

27 (a) ~~A~~ license, registration, finding of suitability, pari-mutuel
28 license or prior approval by the Commission of any transaction for
29 which the approval was required or permitted under the provisions
30 of this chapter or chapter 462, 464 or 466 of NRS should be limited,
31 conditioned, suspended or revoked ~~it~~ ; or

32 (b) *A person or entity which is licensed, registered or found*
33 *suitable pursuant to this chapter or chapter 464 of NRS or which*
34 *previously obtained approval for any act or transaction for which*
35 *Commission approval was required or permitted under the*
36 *provisions of this chapter or chapter 464 of NRS should be fined,*

37 *the Board* shall initiate a hearing before the Commission by
38 filing a complaint with the Commission in accordance with NRS
39 463.312 and transmit therewith a summary of evidence in its
40 possession bearing on the matter and the transcript of testimony at
41 any investigative hearing conducted by or on behalf of the Board.

42 3. Upon receipt of the complaint of the Board, the Commission
43 shall review ~~it~~ *the complaint* and all matter presented in support
44 thereof, and shall conduct further proceedings in accordance with
45 NRS 463.3125 to 463.3145, inclusive.



4. After the provisions of subsections 1, 2 and 3 have been complied with, the Commission may:

(a) Limit, condition, suspend or revoke the license of any licensed gaming establishment or the individual license of any licensee without affecting the license of the establishment;

(b) Limit, condition, suspend or revoke any registration, finding of suitability, pari-mutuel license, or prior approval given or granted to any applicant by the Commission;

(c) Order a licensed gaming establishment to keep an individual licensee from the premises of the licensed gaming establishment or not to pay the licensee any remuneration for services or any profits, income or accruals on the investment of the licensee in the licensed gaming establishment; and

(d) Fine each person or entity, or both, ~~who was~~ *which is* licensed, registered or found suitable pursuant to this chapter or chapter 464 of NRS or ~~who~~ *which* previously obtained approval for any act or transaction for which Commission approval was required or permitted under the provisions of this chapter or chapter 464 of NRS:

(1) Not less than \$25,000 ~~nor~~ *and not* more than \$250,000 for each separate violation of any regulation adopted pursuant to NRS 463.125 which is the subject of an initial or subsequent complaint; or

(2) Except as otherwise provided in subparagraph (1), ~~of this paragraph,~~ not more than \$100,000 for each separate violation of the provisions of this chapter or chapter 464 or 465 of NRS or of the regulations of the Commission which is the subject of an initial complaint and not more than \$250,000 for each separate violation of the provisions of this chapter or chapter 464 or 465 of NRS or of the regulations of the Commission which is the subject of any subsequent complaint.

↪ All fines must be paid to the State Treasurer for deposit in the State General Fund.

5. For the second violation of any provision of chapter 465 of NRS by any licensed gaming establishment or individual licensee, the Commission shall revoke the license of the establishment or person.

6. If the Commission limits, conditions, suspends or revokes any license or imposes a fine, or limits, conditions, suspends or revokes any registration, finding of suitability, pari-mutuel license or prior approval, it shall issue its written order therefor after causing to be prepared and filed its written decision upon which the order is based.

7. Any such limitation, condition, revocation, suspension or fine so made is effective until reversed upon judicial review, except



- 1 that the Commission may stay its order pending a rehearing or
- 2 judicial review upon such terms and conditions as it deems proper.
- 3 8. Judicial review of any such order or decision of the
- 4 Commission may be had in accordance with NRS 463.315 to
- 5 463.318, inclusive.

