

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session
May 27, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 9:08 a.m. on Monday, May 27, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jason Frierson, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Wesley Duncan
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblyman Andrew Martin
Assemblywoman Ellen B. Spiegel
Assemblyman Tyrone Thompson
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman William C. Horne, Clark County Assembly District No. 34

Minutes ID: 1282



STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Linda Whimple, Committee Secretary
Macy Young, Committee Assistant

OTHERS PRESENT:

Pete Ernaut, representing the Nevada Resort Association
Lorne Malkiewich, representing the Nevada Resort Association
Sean T. Higgins, representing the Nevada Restricted Gaming Association;
and Golden Gaming, Inc.
Keith L. Lee, representing American Wagering, Inc.
Jeff Siri, Chief Operating Officer, American Wagering, Inc., Las Vegas,
Nevada

Chairman Frierson:

[Roll was called. Protocol was explained.] We have one bill on the agenda today, we have a work session, and we are going to stay in order. I will open the hearing on Senate Bill 416 (2nd Reprint).

Senate Bill 416 (2nd Reprint): Revises provisions governing gaming. (BDR 41-1104)

Pete Ernaut, representing the Nevada Resort Association:

Most of the issues and language in Senate Bill 416 (2nd Reprint) are mirrored in Assembly Bill 360, which has been heard before this Committee, so I will not belabor the issue. I think everyone understands the bill. I would just give an overview since it has been a number of weeks since we have been before you to summarize the intent of S.B. 416 (R2).

There are two issues encompassing S.B. 416 (R2). The first is to prohibit sports book kiosks in restricted locations. It is the opinion of the Nevada Resort Association and its 73 members that a sports book kiosk is a sports book, and by definition should not be allowed in a bar. Restricted statutes are clear that restricted licensees should have 15 machines and nothing more. The kiosk was created and allowed through administrative approval, and the language in the bill simply would remove any ambiguity by specifically prohibiting a sports book kiosk in a restricted license location.

The second part is a public policy that deals with the minimum investment for a restricted licensee. The logic behind it is that this is the bar business. It is not

the gaming business. For a bar to have gaming, it is supposed to be incidental to the underlying business, which is the bar business. Unfortunately, through the last few years, that definition of incidental, which legislators have struggled with, has led to a presumptive test that if there was a tavern licensed in any jurisdiction, it then made the situation by which it was presumed to be incidental to gaming. Unfortunately, what we have found is that the definition of tavern, the thought of a tavern, varies widely and that taken to its extreme, slot arcades and slot parlors can be created because there is no underlying business, but it does fit the definition of a tavern.

The second part of S.B. 416 (R2) deals with the minimum investment requirements for a restricted licensee in terms of square footage, in terms of having a restaurant, and all of those things I think a commonsense person would find the definition of what we all believe a tavern is. It also deals with the issue of a fair and level playing field amongst the tavern industry itself, meaning that you have some in the tavern industry that build a bar that has a restaurant, TV, lounge, and everything that you would commonly think of in a tavern, costing them many more times what a slimmed-down slot arcade would, yet they are both allowed 15 machines.

Mr. Chairman, those are the two major issues, one of sports book kiosks and the other of a minimum investment requirement for restricted locations. If you would like, Mr. Chairman, in the interest of time, we could just open it up for questions.

Chairman Frierson:

You highlighted a point, and it has been some time since we visited this issue. Are there any questions from the Committee at this time? Does everyone remember the issues that were presented to us before?

Assemblyman Wheeler:

I have a real problem with the kiosk part of this bill. I do not believe that you can tell a business what type of machines to have, the number of machines, the square footage, or whether a restaurant is open or not. With regard to telling someone that they can have certain types of machines, if the kiosk were one of the 15 machines, why would that be offensive to the Nevada Resort Association? When we put in the restricted license, we had slot machines where you pulled the handle, wheels turned, and if you got three cherries, you did good. You could not play poker, blackjack, keno, or anything like that, no table games whatsoever, which was the intent at that time. As technology came further into being, now I can go down to Hamdog's and sit at the bar and play poker, blackjack, keno, anything I want to play. Please tell me why would

this not be the same thing as far as the sports book is concerned. I can just go over to a machine, stick a buck in, and bet on the Giants.

Pete Ernaut:

I think it comes down to a basic philosophical point, and I completely respect your opinion. We believe that a sports book kiosk is a sports book. It has all the same functionality. You can create an account, look up odds, and make a bet, and it has cashiering functions. We believe it is a sports book. Why is that important? Because if you look in the statutes to govern nonrestricted licensees, a sports book is only allowed in a nonrestricted licensed location. When we had this discussion earlier in terms of A.B. 360, I handed out to all the members of the Committee the statutes that govern both restricted and nonrestricted licensees so that you could see the inconsistency between the two. Sports books are specifically pointed out in nonrestricted terms but not in restricted terms. Whether you ultimately agree with this point or you do not, the point is we believe a sports book kiosk is a sports book. It is not a slot machine. It is not a gaming device. It is a sports book, and sports books are prohibited by statute outside of the nonrestricted location.

There is one other quick issue that I did not talk about earlier. There was one change in S.B. 416 (R2) that was a matter of some discussion amongst this Committee as well. One of the restrictions that was eased in the latest version of S.B. 416 (R2) was the requirement to have machines embedded in the bar. I think that speaks a little to Mr. Wheeler's point insomuch that it allows for technological advances and the move from pulling a handle to an embedded machine to whatever the next step is, but as long as it stays within the 15-machine requirement, they would no longer have to be embedded. So there is a requirement to build a bar, but the machines do not have to be embedded. I just want to remind you that the Dotty's portion of this bill only focuses on Washoe and Clark Counties.

Chairman Frierson:

With respect to Clark County, what is the status of the ordinance requirements in Clark County compared to what would be proposed in S.B. 416 (R2)?

Pete Ernaut:

It was our attempt to mirror the regulation in Clark County. That was the foundation and basis for that portion of S.B. 416 (R2) to begin with. The only change now would be in the embedded machine requirement. Other than that, it would specifically mirror the Clark County regulation that is already in place.

Assemblywoman Spiegel:

My question about the 2,500-square-foot requirement relates to established businesses that are in a space that is smaller than 2,500 square feet. I was looking at the dates of compliance and it was either a change of ownership of the business or July 1, 2015. If there was a business that was 2,100 square feet or 2,200 square feet, and if this bill were to pass as is, would that business have to close, say, if they were in a strip mall and could not get more square footage?

Lorne Malkiewich, representing the Nevada Resort Association:

The provisions you are referring to, which is July 1, 2015, or change of ownership—refer to paragraph (b) of subsection 2 of *Nevada Revised Statutes* (NRS) 463.161 as amended by S.B. 416 (R2). That is the requirement to have a bar. It is not even with embedded slots anymore. It is just to have a bar. So any restricted gaming licensee would have to comply with the requirement of paragraph (b), subsection 2, section 3, which, as you can see on page 4, contains a permanent, physical bar by change of ownership or July 1, 2015. The 2,500-square-foot and restaurant requirements are in paragraphs (a) and (c). If you look at subsection 4 of section 7, on page 6 starting at line 36, if you are granted a restricted license before July 1, 2013, but you are not in compliance with paragraphs (a) or (c)—again, that is the 2,500 square feet or the restaurant—you are not required to come into compliance with those provisions unless you cease gaming operations for 18 or more consecutive months. So an existing owner of a tavern that does not have a restaurant but has a restricted license would not need to put one in.

Assemblywoman Spiegel:

Grocery stores would not be required to put in bars, is that correct?

Lorne Malkiewich:

No. There are several different entities that are allowed to have slot machines in them. This is only relating to those that sell alcoholic beverages by the drink.

Chairman Frierson:

Are there other questions from the Committee? [There were none.] Having vetted this issue to some extent before, at least having heard it out, I will now invite folks wishing to offer testimony in support of S.B. 416 (R2) to come forward, either here or in Las Vegas. [There was no one.] I will invite those wishing to provide testimony in opposition, first in Carson City, to come forward.

**Sean T. Higgins, representing the Nevada Restricted Gaming Association; and
Golden Gaming, Inc.:**

I want to point out that the Nevada Restricted Gaming Association represents over 1,400 of the 1,900 restricted operators in the state of Nevada. Those members operate everywhere from community stores to drugstores, grocery stores, taverns, supper clubs, and other similar locations.

I feel like we are here defending my clients' veracity and the fact that somehow people think that they are skirting the law, on both the tavern issue and the kiosk issue, and nothing could be further from the truth. In both instances, my clients, with both the tavern and the kiosk, comply with every regulation, law, code, ordinance, and other requirement placed before them by state and local governmental entities, whether that be the State Gaming Control Board, the Nevada Gaming Commission, the Clark County Commission, the Las Vegas City Council, or the Reno City Council. Any one of those. Never once did they not comply with a single requirement put forth by those entities. Whatever was asked of them, they did.

I am here today, still trying to defend my clients—and their livelihood—for simply following the laws that were put before them when they went before these bodies. I want to thank Mr. Ernaut for his efforts to protect some of my clients against other clients with this tavern definition. We, the Nevada Restricted Gaming Association, are in agreement with the current definition set forth in S.B. 416 (R2), because it takes out the requirement for the embedded games in a location. Past that, the definition is something we can live with. My clients have been living with this definition in Clark County and similar, yet slightly less restrictive, requirements set forth by the Nevada Gaming Commission. Again, my clients have been living by certain restrictions for taverns since they were put in place.

The one thing we do take notice of is that, in my opinion, the operational section of S.B. 416 (R2) does still need to be revised. As we read section 7, subsection 1, it has an exception which says, "Except as otherwise provided in this section, the amendatory provisions of section 3 of this act apply to the issuance of a restricted license on or after July 1, 2013." The issuance of a restricted license can happen at existing locations as well. When you sell a location, the new owner is issued a new license. If you will look at my proposed amendment ([Exhibit C](#)), I use language that is used numerous times in both the NRS and the gaming regulations, which is they do not apply to an establishment for which a restricted license was granted before January 1, 2014. The reason I pushed that back to January 1, 2014, is because you currently have locations in the pipeline in the state of Nevada with the Nevada Gaming Commission who are meeting those Gaming Commission

regulations which only require 2,000 square feet of public space. To put a law in place that took effect July 1, 2013, would penalize people who applied under the current regulations of that law and would not give them an opportunity to open as the current law requires. The other amendatory provisions in that section simply push back correspondingly the timeline in the other paragraphs to either January 1, 2014, or January 1, 2016, so that people understand exactly what they are required to comply with and when.

Chairman Frierson:

Would you describe the process? You are saying that the effective date, in your opinion, would penalize those who have already submitted an application, but by having submitted an application, does that mean that they have already completed construction?

Sean Higgins:

I cannot tell you if they have completed construction. Some may, and some may not. But they will have signed a lease for a certain square footage. A lease is one of the requirements—either a lease or ownership of the land—when you file your application with the Gaming Control Board and the Gaming Commission. Therefore, you may have people who have filed that application who have 2,000 square feet or less of public space since that is the requirement that the Gaming Commission set forth.

Chairman Frierson:

Is there not a chance that the application would be denied anyway by virtue of applying? I would assume there is some objective decision that has to be made, so to some extent they are getting a lease with the hope that they are going to get approved, but it is not guaranteed, correct?

Sean Higgins:

Absolutely not. It is the personal background of the ownership of that tavern that in many instances is the single most important factor in looking at their economic ability, and in looking at the approval of that application, not the square footage or other items within the tavern application. However, people have applied in reliance upon the Gaming Commission's requirements set forth in August of 2011. All I am asking for is that those people who applied in reliance upon that square footage—which is only 2,000 square feet of public space, and not the 2,500 square feet contained in S.B. 416 (R2)—be allowed to follow that all the way through the licensing process so they are not penalized. You could have a person who applied in March of this year who has 2,000 square feet of public space and has no ability, because his lease is for a certain square footage, to expand that to 2,500 square feet. He has applied

prior to the effective date of this law; however, if your requirements take effect July 1, 2013, he then has no way to comply with it.

Chairman Frierson:

In your experience, is anyone ever denied for an application?

Sean Higgins:

Absolutely, people are denied for applications.

Chairman Frierson:

So there are those people who applied, and with that application had a lease, and were still subsequently denied. To some extent when they apply, although they are relying on the hope that they will get approved by complying with certain standards, there is a chance it would not get approved anyway.

Sean Higgins:

That is correct. I think we have members of the Gaming Control Board here who might be able to help me answer this a little better. I am just trying to ensure that people do not get caught up in that limbo period, after application but before approval, when the law changes in the interim.

Chairman Frierson:

I am assuming that your position is that they do not get penalized for that provision only. They can still be denied for other reasons.

Sean Higgins:

Absolutely. It is simply giving them the time within which to have their license approved or denied. I am happy to answer any questions on the tavern issue.

Chairman Frierson:

Are there any questions from the Committee on the tavern issue? [There were none.] Mr. Higgins, do you have any idea how many applications are pending that would otherwise be noncompliant based on this proposed definition?

Sean Higgins:

I do not have that answer.

Chairman Frierson:

Do you know how many of your clients?

Sean Higgins:

Yes, there are clients who have complied with the 2,000-square-foot requirement for public space but have not complied with a 2,500-square-foot

requirement, which is not there except for in Clark County. If you are in the cities of Las Vegas, Henderson, or North Las Vegas, you do not have to apply with 2,500 square feet, and there are locations that are currently going forward with 2,000 or less square footage. I do not have a number.

Chairman Frierson:

If you could get the number, that would give us some insight as far as impact.

Sean Higgins:

I will attempt to do so.

Keith L. Lee, representing American Wagering, Inc.:

I have a client that fits in the category in Washoe County, and he would not comply with the current 2,500-square-foot requirement. He will comply with the 2,000-square-foot requirement, and that is the state regulation applicable in Washoe County as we stand here today.

To continue with what Mr. Higgins said is what we are requesting here by changing the effective date, he still has to go forward and meet all of the requirements of licensure under the state laws and regulations. Our concern is that this would be a game-ender for this client; his hearing is tentatively scheduled for July 10 and 11. That is an example where, if this bill were to go forward with an effective date as it sets forth there, he would be kicked out of the queue, not based upon his qualifications to hold the license, but based upon a change in the law on which he was relying when he made his application.

Chairman Frierson:

If you could give us any insight you might have, in Washoe County in particular, or statewide, of any numbers of folks who are currently complying that would not be in the application process.

Sean Higgins:

I will get that to you. The second and distinct issue with S.B. 416 (R2) is what we are calling the kiosk or sports wagering kiosk issue. Over the course of several years, the Nevada Gaming Control Board and its investigatory staff and technical agents looked at and reviewed the functionality of the kiosks and ensured that they met all the requirements. As they looked at it, they came to a conclusion that the kiosk was a communication device and associated equipment, and not a gaming device as defined in regulation. Again, just as tavern owners followed the law when they constructed their businesses, the restricted operations at which kiosks are located were installed legally by a licensed race and sports book operator who also followed all the laws put forth by the Nevada Gaming Control Board. My client and sports book operator

invested millions of dollars in the product and followed every requirement set forth by the Gaming Control Board.

I want everyone on the Committee to understand that any one of you or I could place a wager from anywhere in the state of Nevada. One of you could be placing a wager right now on the computer you are looking at. It is a technology issue. Patrons are allowed the convenience of placing wagers outside of the four walls of the casino. However, the Nevada Resort Association would have you believe that accepting or placing a wager by stationary kiosks, which look very much like an automated teller machine (ATM), is somehow much different than placing a wager on an iPad or your computer. Assemblyman Horne will be introducing today onto his A.B. 360, which is the sister bill to this, an interim legislative committee to study, amongst other things, the impact of technology on the regulation of gaming and on the distinction between restricted and nonrestricted licensees, and the impact of modern and evolving technology on the regulation of gaming.

I would put forth to this Committee that all my proposed amendment does is push back the effective date for the sunset on the kiosks to July 1, 2015, which in essence allows the Legislature to study the kiosks more completely and more fully, and the functionality of it as it is studying other technologies. Should the Legislature decide that the kiosks should be taken out as of July 1, 2013, where is the study of that technology? How can this body actually take a good, hard look at what the functionality of those kiosks is? My amendment gives the Legislature time to study the kiosk as well as other technologies and make insightful, well-thought-out recommendations on this issue next session. If, after studying it, the interim committee still finds that kiosks and their functionality go beyond what they want to grant, they must do nothing else. By its terms, under my amendment, the kiosks would sunset on July 1, 2015.

As I look at this, this should be the fair and equitable solution to this issue. My clients, throughout this legislative session, have offered several reasonable compromises on this issue; however, all have been rejected by the proponents of this bill. We are asking this Committee to look at the issue as they are looking at other technologies as well, and do not preclude this single technology because a single group of businesses want you to outlaw it and ban it immediately. We should do the right thing here. Do not penalize someone who followed the law, and invested millions of dollars, without fully vetting that technology. Look at these devices, their functionality, and then determine which portions, if any, of their functionality are appropriate and which are not. With that, I would respectfully request that you amend the date of the

effectiveness for the sunset of the kiosk from July 1, 2013, which is currently in S.B. 416 (R2), to July 1, 2015. I am happy to answer any questions.

Chairman Frierson:

I think you made the point a couple of times that the development of the kiosk issue was done in compliance with the law, but I think, especially for the benefit of Mr. Thompson, who was not here during the vetting of this, it is also fair to say that everyone knew this was temporary. The regulations that were approved were approved on a temporary basis for the purpose of the Legislature making a policy decision about it. Is that not the case?

Sean Higgins:

I would respectfully disagree with you. The Gaming Control Board administratively approved it. They have the power to do so. The Nevada Gaming Commission approved a revenue-sharing agreement between Golden Gaming and William Hill. It was not the operation of the kiosk, and I want to make sure everyone understands the distinction. It was solely the revenue-sharing portion of the agreement which sunsets in July. It does not mean that as of July 1, 2013, William Hill and Golden Gaming could not enter into a straight lease for a specific amount of money and not share in the revenues. That was the only portion that sunseted. The Nevada Gaming Commission did not sunset these machines and have them be pulled out. That was not the requirement, nor was that the hearing that was held on this issue. There is a major difference.

Chairman Frierson:

I do not recall it being quite that clear. I thought the Commission's decision on it was a short-term renewable situation until the Legislature decided otherwise.

Sean Higgins:

The hearing that was held was not a hearing on whether kiosks and their functionality were appropriate. That had been determined per administrative approval, which was the proper and required approval. I think if you look at the transcript, the Gaming Commission will say, "The only issue before us today is the revenue-sharing agreement between Golden Gaming and William Hill." Not whether the kiosks are appropriate. I know there are members of the Gaming Control Board here today who I think could verify my position on this. It is not the functionality of these. It was simply the revenue-sharing agreement that terminated by its terms on July 1, 2013. As you study these technologies, this is one of the technologies you should study, and give yourself the time to make it an appropriate, well-thought-out decision.

Chairman Frierson:

I think your position is that we should allow it to continue while we are studying, as opposed to stopping until we study it.

Sean Higgins:

Yes. I believe that you should allow it to continue at the current locations. Not expand it at all, but allow it to continue in its present form at those locations during the interim legislative committee period.

Assemblyman Wheeler:

Have you communicated with the Nevada Resort Association? I know that one of their biggest problems with the kiosk issue is the payouts being in the bar. I am wondering if there has been any discussion of limiting the amounts of those payouts so that everyone is happy.

Sean Higgins:

A compromise with those terms was presented to the Nevada Resort Association at least a month ago, if not more, and was rejected.

Assemblyman Martin:

I am trying to understand the magnitude of the accounting and tax impacts of the kiosks. I am assuming these are basically automated machines. What kind of percentage of the overall business of your clients does it represent? Is it 5 percent, 3 percent, or 20 percent? If there was removal of the kiosks, how would that affect, in your opinion, the other parts of the business such as the restaurant and bar sales? Would you give me a sense about that overall? Also, I think back to the presentation you did several months ago where you also contrasted it to the overall industry. I am trying to get some insight into the magnitude of what we are talking about.

Sean Higgins:

I will attempt to answer a portion of that, but I am going to hand off to Mr. Siri or Mr. Lee on the more detailed portion of the race and sports book numbers, since that is their primary business. There are approximately 80 of these devices in operation in the state of Nevada with the vast majority in southern Nevada and Clark County. I believe there are three in all of northern Nevada as we sit here today. You have these in a limited number of locations throughout the Las Vegas Valley, and the technology has been in effect for two to three years, but over the past 18 months, the majority of those gaming devices have been put out. They are just starting to feel the impact of those. Mr. Siri can better answer the economic questions, but obviously we all know the state of Nevada had a record race and sports book win last year, and a record handle.

Keith Lee:

From the year 2011 to 2012, there was a greater than \$30 million increase in the win in sports wagering in the state of Nevada. Of that \$30 million increase, \$600,000 was attributed to the kiosk, so it is \$600,000 versus \$30 million. I might also remind the Committee that we pay gross gaming revenue tax on those winnings.

Chairman Frierson:

Are there any other questions from the Committee? [There were none.]

Keith Lee:

With me today is Mr. Jeff Siri, the chief operating officer of American Wagering, Inc., who would like to give brief remarks regarding this. I would like to reiterate that what we are talking about is 84 locations. We support Mr. Higgins' amendment to grandfather these in for a period of two years to allow the study that we think is going to go forward and Mr. Horne's bill, which we endorse, to allow us to determine what impact, if any, there is on these. I think the anecdotal evidence in the last 18 months shows that there was very little impact, and I do not think you have heard any testimony from anyone that because of gaming wagering kiosks in restricted locations, folks have had to be laid off at the nonrestricted locations. On the other hand, I would remind you if these are outlawed, certainly we are going to have to look at our workforce and look at a reduction in force because we have folks whose sole job is dedicated to the operation, maintenance, et cetera, of these kiosks.

Jeff Siri, Chief Operating Officer, American Wagering, Inc.:

I am the chief operating officer of American Wagering, Inc., which does business here in Nevada as William Hill. William Hill operates approximately 100 locations in nonrestricted gaming operations, plus we have 83 kiosks in restricted locations. We are the company that will be hurt the most by the anti-kiosk legislation you are considering today. But we are not the only ones that are going to be hurt if this legislation moves forward. There will be a number of small businesses that get hurt, jobs will be lost, and tax revenues will decrease. It is hard to believe that this Legislature would want to eliminate a source of tax revenue that it currently has in the state of Nevada from a legitimate source. The integrity of gaming regulation in this state will suffer if the changes are made after we and others have relied on them.

I think it is important to give you some facts about kiosks. First, kiosks were introduced to bars and taverns in 2004 by a member of the Nevada Resort Association. Subsequent to that time, members of the Nevada Resort Association supported regulations that permitted wagering accounts to be opened away from casinos. So the notion that the Nevada Gaming

Control Board went rogue when it approved our kiosks in Golden Gaming's taverns is totally false. It is simply not true. These kiosks are clearly permitted under the gaming regulations, the same regulations that the Nevada Resort Association wanted enacted. That is why the Gaming Control Board approved the kiosks after they fully vetted the concept and the technology.

The sunset on the revenue-sharing agreement that the Nevada Gaming Commission put in place is entirely different than the authority under the existing regulations to do exactly what we are doing with the kiosks. Even if we cannot share revenue with Golden Gaming, we have the legal right to operate the kiosks in the same manner that we are doing, unless you change the rules. We might want to restructure our agreement with Golden Gaming, but we can still operate these kiosks.

What is going on here is that the Nevada Resort Association is asking you to change the rules after the fact, and after we and our partners have made substantial capital investments in reliance on gaming regulations. This is not fair, and we have serious doubts that it is constitutionally permissible. I respectfully submit to you that you cannot change the rules after we, and others, have relied on them just because the Nevada Resort Association members have changed their minds and no longer like the very regulations they enacted. But rather than having to turn to the courts, we ask that you study the matter closely before making such a drastic change that will have a significant impact on William Hill, Golden Gaming, our employees, numerous small businesses, and the integrity of gaming regulation in Nevada.

We also have concerns about the change in the requirements regarding the predicate licenses. Now that we are already licensed to operate a race and sports book, we believe that subsection 3 of NRS 463.245 applies only to new race book or sports pool licenses for which we might apply. However, the changes of subsection 2 to NRS 463.245, on page 4 of the bill, create confusion. We do not believe that this bill is intended to put American Wagering out of business or stop us from opening new race books and sports pools in casinos, but we are concerned that our competitors may read it that way, so we would appreciate clarification with regard to that issue.

Additionally, you should know that we have been contacted by customers that, if the kiosks are removed from the bars, they will no longer be able to fund their mobile accounts there. Many customers use the convenience of kiosks to fund mobile accounts. This funding option will go away, our mobile business will be hurt by this, and tax revenue to the state will be lost. This is one more negative consequence of this bill, perhaps unintended, but really hurtful nonetheless.

I cannot think of one single policy reason that justifies enactment of this bill. Not one. The bill is not going to make life better for the Nevada Resort Association members who support it. They will still have to compete in a challenging marketplace. This is not a silver bullet for them; however, it will be a real problem for us.

This bill also serves to chill investments in the gaming industry in Nevada. If the rules can be changed at the whim of the Nevada Resort Association, how can anyone feel comfortable making an investment in the state without the assurance that their investment will be protected by a predictable body of regulation? Think about it. We and others invested a lot of money in Nevada in reliance upon existing regulations. Now the Nevada Resort Association wants to overturn those regulations. This will create uncertainty in the marketplace and make others worry that the same thing will happen to them.

Rolling up the trucks and taking out the kiosks will make people pause before investing and innovating in this state. Technology and business need to move forward. Removing kiosks will be going backward. Indeed, the only reason to vote for this bill is to give the Nevada Resort Association and their lobbyists a political victory, regardless of the policy implications of it. Before that happens, we think these issues should be studied carefully. There is no reason to not just freeze the status quo until the issues can be thoroughly addressed.

Our request to you is that you freeze the status quo; the current kiosks stay where they are and these matters carefully studied and revisited during the next legislative session. To do otherwise will unfairly punish William Hill. After all, we have invested heavily in reliance on the existing regulations.

A quick note in regard to a kiosk and a kiosk being called a sports book. A kiosk is no more than a mobile device. You cannot walk up to a kiosk, put money into it, and anonymously make a bet. You have to become registered as a customer; you have to provide your name, address, social security number, and other personal information. A sports book is where you can walk up to the counter, hand the writer a \$100 bill, \$10 bill, \$5 bill, or even a \$2 bill, and you can make a bet without that person knowing who you are. You have to be a known patron with mobile gaming. So it is not, in fact, a sports book. The revenues of a kiosk are taxed at a nonrestricted location, so the revenues flow back into one of our nonrestricted locations, and those revenues are then taxed at the location where that kiosk device is registered.

Chairman Frierson:

I have some questions dealing with the most recent point you made, which is that the kiosk is not a sports book. You said you have to be a known patron. I would like to make sure that the Committee hears how that actually operates.

Jeff Siri:

In order to establish a mobile wagering account, or a kiosk wagering account, you have to appear in person, either at a sports book or at a restricted location, at which point in time you have to provide your identification, including your name, address, and driver's license number. Once the information is provided to a restricted location, in the instance of a kiosk, it is transmitted electronically from there to our internal servers and our hub department. At that point in time, you have to walk up to the kiosk and go through a registration process, reviewing all the information that was input. On top of that, you have to input your social security number and we take your photo off of the kiosk, which is then compared so we can verify your identity from your driver's license and that information as to who is actually standing in front of the kiosk.

Chairman Frierson:

So each time you place a bet, you have to input your social security number and have a photo taken?

Jeff Siri:

No, not each time you bet. Only the first time when you establish your wagering account. After your wagering account is established, you have to put money into the kiosk, which is then deposited into your wagering account. After that money has been deposited, you are free to make a wager. You can make it either on a mobile device or on the kiosk, at which point in time you go through the entire process of selecting what you want to wager on. The wager amount is deducted from your account. You do not get a ticket that says this ticket is valid for payment. If you win or lose that wager, then the money in your account goes either up or down, based upon the result of that wager.

Chairman Frierson:

Under the proposed language in this bill, everything you described would operate the same except for the kiosk in the facility. Am I right?

Jeff Siri:

I need some clarification.

Chairman Frierson:

If you sign up for an account and input all the information, you can still place wagers with your mobile device? You just could not do it at the kiosk?

Jeff Siri:

That is correct, although I think that this legislation would potentially eliminate the ability to establish an account at a restricted location.

Chairman Frierson:

I think we need to know the answer to that, or at least what the intent is. Along those lines, say that John Doe sets up an account and goes through everything. When he goes back to place a wager, presumably at a kiosk, what is required at that point? A card or a member number?

Jeff Siri:

If it is at a Golden Gaming location, they would swipe the player's card that they have from Golden Gaming which identifies their account. They would also have to input their personal identification number to verify that, in fact, it is their account, and as long as there is money on deposit, they go through the wagering process.

Chairman Frierson:

Is there anything—and I realize that this is the case with mobile gaming as well—in the agreement when a person opens up an account about letting someone else place bets?

Jeff Siri:

Yes, there is. The agreement is that it is a nontransferable account and only the person who has the established account can make wagers.

Chairman Frierson:

But there is no policing of that; there is no way to enforce it. It is kind of an honor system.

Jeff Siri:

Yes. We can take a picture of a person making a wager at any time that they do make a wager.

Chairman Frierson:

I do not know why someone would do this, because they can do it on a cellphone, but I am just making the point; I am just curious. If someone were to open an account that way, they could give someone else their card.

Jeff Siri:

Theoretically that could happen. It would be a violation of the Nevada gaming regulations and the statutes, so I think that person could potentially be subject to criminal action.

Chairman Frierson:

You mentioned earlier that you thought that this action on behalf of the Gaming Commission would create some uncertainty that would possibly discourage investments and exploration of new gaming ideas because of the uncertainty.

Jeff Siri:

Yes. William Hill has invested hundreds of thousands of dollars in the technology behind the kiosk. Golden Gaming in this instance has invested a tremendous amount of money into the development of the kiosks, and William Hill has also invested a substantial amount of money in servers that have to do with controlling and regulating the acceptance of wagers and establishment of accounts. If someone comes to the state of Nevada and does an investment like we have—and Golden Gaming has in this situation—and then the regulations or laws change, that would prevent us from continuing to do business after we have invested hundreds of thousands of dollars. I think that could potentially discourage new investors from coming in and being subject to the same change in laws or regulations.

Chairman Frierson:

I certainly understand the point you are trying to make. It seems to me that most of the investment that you described would still be put to use by virtue of the mobile gaming opportunities. It would just be the kiosk aspect of it that would be directly affected by this.

Jeff Siri:

There is still separate development that has to do with kiosks that are different from mobile. There are differentiations in that.

Chairman Frierson:

Would you tell us how many kiosks there are now?

Jeff Siri:

We currently have 83 kiosks in the state of Nevada.

Chairman Frierson:

William Hill is the only entity in this arena right now?

Jeff Siri:

The only one that I know of at this point in time. We have heard that Station Casinos has a kiosk product and that they have an agreement with a potential restricted location, but it has not been deployed yet.

Chairman Frierson:

You had mentioned that other small businesses would be impacted. What other small businesses were you referring to?

Jeff Siri:

At this point in time, our agreement is with Golden Gaming, and Golden Gaming also has a division called Golden Route Operations. Through the Golden Route Operations there are other nonrestricted gaming locations that we have placed kiosks in. They are not owned by Golden Gaming; they are owned by other individuals, and we are doing business with those individual locations through Golden Gaming.

Assemblyman Wheeler:

You have 83 locations right now under the current license, and you say they are not a sports book. In those locations, do they have 15 machines plus the kiosk? Is the kiosk supplemental, or is it one of the 15 machines?

Jeff Siri:

Yes, those locations have up to 15 slot machines and the kiosk is a separate device. So if you want to count it as a gaming device, which it is not, it would be the sixteenth piece of equipment in there.

Assemblyman Wheeler:

My argument all along has been that it is just another gaming device, so I guess that blows it out of the water.

Chairman Frierson:

I was going to ask you to clarify. I did a little homework, and unless it was just unique, it seemed to be more of a stand-alone ATM device as opposed to one of the devices around the bar.

Jeff Siri:

You are correct. It is a stand-alone device at this point in time.

Assemblyman Martin:

I want to rephrase an earlier question. I am trying to get at what the impact of removing the kiosk would be to the restricted gaming license business. Are you going to see a drop-off in bar sales or food sales? Are people going to the

restricted gaming license establishments to specifically do sports betting, or will it have no effect? I am curious to get your feedback on that.

Jeff Siri:

We do not operate the food and beverage operations at any of the Golden Gaming or Golden Route Operations, so I cannot tell you specifically how it would impact them, although in discussing the matters with individuals from Golden Gaming, they have seen some positive effects of having a kiosk in their locations, especially during times of special events. A good example was the NCAA basketball tournament, when we had people lined up at the kiosk at a number of the different kiosk locations in order to make wagers, as well as at our sports books.

Sean Higgins:

I can tell you that occurred. I was at a location during the NCAA basketball tournament's first round, and we had patrons who showed up in the morning, watched the games all day, and placed their wagers at the kiosk, so the food and beverage sales at the tavern location were certainly increased because those people were not leaving, and they ended up staying all day.

Assemblywoman Spiegel:

You mentioned that you have some kiosks that are in both restricted and nonrestricted environments, and I am wondering if any of those nonrestricted environments are within casino resort hotels?

Jeff Siri:

Yes, they are. There are some that are in resort locations and some that are in grandfathered nonresort, nonrestricted locations.

Assemblywoman Spiegel:

Have you seen traffic patterns where tourists come in, get established in hotel locations, and then recharge their accounts in off-Strip neighborhood restricted locations? If so, how prevalent is it?

Jeff Siri:

Yes, we do see that happen. I do not have any specific numbers available at this point in time to tell you that that does happen. We know that we get a substantial number of deposits made through the kiosks in the restricted locations.

Chairman Frierson:

Are there any other questions at this time? [There were none.] I am going to deviate from my ordinary practice because, although I do not believe

Assemblyman Horne signed in to speak, his name and his bill were mentioned. I do not want that to happen without getting any clarification on its relationship. I also want to get some follow-up to some extent on the proposals for supporters of the bill.

Mr. Horne, generally, what is your position on the proposed amendment as it affects that bill? It is the same language and same topic, and what level of communication have you had with folks about it?

Assemblyman William C. Horne, Clark County Assembly District No. 34:

I am in opposition of the proposed amendment. I have had numerous communications with the proponents of both this bill that you are considering today and A.B. 360. I entertained the idea of grandfathering the kiosks, et cetera, but came to the conclusion that I did not want to do that. Grandfathering them another two years and not allowing any other expansion would, in effect, grant a monopoly to one business entity on these kiosks for that period of time and they would basically be the only ones operating in this arena. Also, on policy reasons, as has been spoken about today on whether or not kiosks are sports pools or race and sports books and if they are, do they belong in a restricted location. I came to the conclusion that they are, and I do not believe they belong there. I believe they are race and sports books for all practical purposes; that is what they do, and historically, these race and sports books had to operate inside a nonrestricted location.

I have made some amendments in A.B. 360 since it was heard here, and one is providing for a study committee that will study the effects of online gaming, new technology, et cetera, in the state of Nevada and our economy on both restricted and nonrestricted businesses. Yes, the kiosk issue should be considered and studied in that committee, but we have two years of data that we can use in those hearings. I do not believe we need another two years of study of the kiosks in these locations. I disagree with Mr. Higgins in the fact that our regulatory bodies are not supposed to set policy. That is what this body is for. It is to set policy and, at our direction, they put the regulations in place. This administrative decision that was made on these kiosks, while even if we say that the issue was on revenue sharing of the kiosk, in effect, if you let that expire and they can no longer do this revenue sharing, what is the point of having a kiosk in the restricted gaming location in the first place? It makes that moot anyway. I believe that the reason why the two years was put in there was because we have a really good gaming control board and commission, and sometimes because we are only in session every two years, they make decisions in the interim and hope for further instruction and direction from us when we come back into session, and this is an instance where that has happened. They have allowed for a practice to occur for a specific period

of time—two years—and notably they have allowed that to expire the month after we sine die. I believe that is why we are here today—to basically debate and consider these policy decisions on gaming.

Chairman Frierson:

I do not want to revisit the bill that is before us today, but to the extent that there are any questions from the Committee, I would entertain them. Are there any other thoughts from the Committee? [There were none.] Is there anyone else wishing to offer testimony in opposition? [There was no one.] Is there anyone wishing to offer testimony in a neutral position? [There was no one.]

Mr. Ernaut, if you have any closing remarks, I think Mr. Horne addressed the tone of the concern about the proposed amendment as it relates to the subject. With that said, and there being no other comments, I will close the hearing on S.B. 416 (R2).

We are now going to our scheduled work session, and we will stay in order. The first bill is Senate Bill 423.

Senate Bill 423: Revises provisions relating to offenders. (BDR 16-1112)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 423, sponsored by the Senate Committee on Judiciary, was heard in this Committee last week on May 23, 2013. Senate Bill 423 requires the Director of the Department of Corrections to provide an offender with a photo identification (ID) card issued by the Department if the offender requests an ID card when he or she is released. The card must include the name, date of birth, and a color picture of the offender. The measure further provides that an offender who is eligible to apply for a driver's license or ID card through the Nevada Department of Motor Vehicles may submit the Department's photo ID card as proof of the offender's full legal name and age (Exhibit D). There were no amendments.

Chairman Frierson:

Thank you, Mr. Ziegler. Is there any discussion on this bill? [There was none.] I will be seeking a motion to do pass.

ASSEMBLYMAN THOMPSON MOVED TO DO PASS
SENATE BILL 423.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Thompson will handle the floor statement. Next in our work session is Senate Joint Resolution 14 of the 76th Session.

Senate Joint Resolution 14 of the 76th Session: Proposes to amend the Nevada Constitution to create an intermediate appellate court. (BDR C-1013)

Dave Ziegler, Committee Policy Analyst:

Senate Joint Resolution 14 of the 76th Session was sponsored by the Senate Committee on Judiciary and heard in this Committee on May 23, 2013. This joint resolution proposes an amendment to the *Nevada Constitution* to create an intermediate appellate court, known as the Court of Appeals, composed of three judges initially appointed to two-year terms by the Governor from nominees chosen by the Commission on Judicial Selection. Following initial appointment, the judges will be elected at the general election to serve a term of six years. [Mr. Ziegler continued to read from the work session document ([Exhibit E](#)).] There were no amendments.

Chairman Frierson:

Thank you, Mr. Ziegler. Is there any discussion on the bill?

Assemblyman Hansen:

This should only come into play after the people have voted on this, correct? Is it one vote or two votes before it becomes part of the *Constitution*? Right now this bill is theoretical and it would only come into play after two full voting cycles, correct?

Dave Ziegler:

If the Legislature passes S.J.R. 14 of the 76th Session and the voters ratify S.J.R. 14 of the 76th Session at the upcoming general election, then it would take effect.

Assemblyman Hansen:

So only one general election cycle. It does not go on the ballot twice to amend the *Constitution*?

Chairman Frierson:

It could go either way. It could be twice by the Legislature and once by the people, or twice by the people and once by the Legislature. This will be the second go-around by the Legislature, having done this once already, and if passed, it will go to the people.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS
SENATE JOINT RESOLUTION 14 OF THE 76TH SESSION.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Ohrenschall will handle the floor statement. The next bill is Senate Bill 463 (1st Reprint).

Senate Bill 463 (1st Reprint): Provides for the implementation of the Court of Appeals. (BDR 1-1197)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 463 (1st Reprint) was sponsored by the Senate Committee on Finance and heard in this Committee on May 23, 2013. This is the implementation measure for the Court of Appeals. This bill would become effective on January 1, 2015, if the current Legislature passes and the voters ratify Senate Joint Resolution 14 of the 76th Session. The bill enacts statutory provisions covering eligibility for the office of judge of the Court of Appeals, annual base salaries, judicial pensions and retirement, and other subjects. It requires the Court of Appeals to hold regular sessions each year as necessary to dispose of its business, and to always be open for the issuance of writs. It also names the bailiff and the clerk of the Supreme Court the ex officio bailiff and clerk of the Court of Appeals ([Exhibit F](#)). There were no amendments.

Chairman Frierson:

Thank you, Mr. Ziegler. Are there any questions on the bill? [There were none.]

ASSEMBLYWOMAN DIAZ MOVED TO DO PASS
SENATE BILL 463 (1ST REPRINT).

ASSEMBLYWOMAN COHEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Diaz will handle the floor statement. With that, I will open the agenda up briefly for public comment, either here or in Las Vegas. [There was no one.] With no other matters before us, today's Assembly Committee on Judiciary is now adjourned [at 10:20 a.m.].

RESPECTFULLY SUBMITTED:

Linda Whimple
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 27, 2013

Time of Meeting: 9:08 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 416 (R2)	C	Sean Higgins	Proposed Amendment
S.B. 423	D	Dave Ziegler	Work Session Document
S.J. R. 14	E	Dave Ziegler	Work Session Document
S.B. 463 (R1)	F	Dave Ziegler	Work Session Document