

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

**Seventy-Seventh Session
April 24, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 9:07 a.m. on Wednesday, April 24, 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
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:

Assemblywoman Marilyn Dondero Loop (excused)

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Karyn Werner, Committee Secretary
Colter Thomas, Committee Assistant

OTHERS PRESENT:

A.G. Burnett, Chairman, State Gaming Control Board
Dan R. Reaser, representing the Association of Gaming Equipment
Manufacturers; and Private Citizen, Reno, Nevada

Chairman Frierson:

[Roll was taken. Committee protocol and rules were explained.] We have two items on the agenda for today, and we will go in order. We will start with Senate Bill 9 (1st Reprint) and I will open the hearing.

Senate Bill 9 (1st Reprint): Makes various changes relating to the regulation of gaming. (BDR 41-328)

A.G. Burnett, Chairman, State Gaming Control Board:

I am here to present Senate Bill 9 (R1). This bill makes various changes to our gaming statutes. I will give you a summary of all of the proposals contained in the bill. In essence, we are requesting to amend *Nevada Revised Statutes* (NRS) 463.014, subsections 1 through 2, to include "wagering credits" within the definition of methods used by cashless wagering systems. Cashless wagering system manufacturers are licensed pursuant to NRS 463.650 ([Exhibit C](#)); that statute was enacted in 1967. It has been amended, and was most recently amended in 2011. At that time, race and sports systems were not making use of wagering accounts and credits—now they are. This would effectively require a manufacturer of a system that utilizes wagering credits to be licensed. Currently, most such system providers are already licensed as manufacturers.

Nevada Revised Statutes 463.0157 would be amended to capture certain technology employees, such as information technology (IT) staff, as "gaming employees." Currently, NRS 463.335 requires gaming licensees to be registered with the Gaming Control Board. Additionally, it clarifies that barbacks and bartenders who do not work in any way or in conjunction with gaming activities are not gaming employees.

Nevada Revised Statutes 463.0161 would clarify that poker tournaments held by interactive gaming licensees and compensation received therefrom would be included as taxable gross revenue. Currently, we estimate the ratio of tournament play in the interactive space to cash games to be approximately a 30 percent to 70 percent split. In other words, approximately 30 percent of that play is in poker tournaments that are overseas, offshore, or on interactive gaming websites. This contrasts with a ratio of 10 percent to 90 percent in respect to the total amount wagered.

Right now, land-based slot and poker tournaments are not taxed. This is for many reasons, most of them historical and going to the nature of costs associated with bringing people into the tournament and advertising for such tournaments. In the interactive space, however, those costs are not high and the concern is that, if this section is not clarified, once licensed, interactive operators could simply only hold poker tournaments, thus avoiding any tax at all.

Section 4 is a clarification of NRS 463.01963, and it goes to the notions I mentioned earlier regarding cashless wagering systems, and clarifies that race and sports books also utilize wagering credits.

Section 5 of the bill clarifies NRS 463.159 so that the Board and not the Nevada Gaming Commission makes the determination, per statute, of any increase or decrease in annual gross gaming revenue taxation, which is required by that section to correspond to the Consumer Price Index. This is a very perfunctory, cursory, and routine thing that the Commission is tasked with doing. This change makes it easier for the Board to calendar this and make the determination itself.

Nevada Revised Statutes 463.569 and 463.5735 are both being clarified—in sections 6 and 7 of the bill—to avoid matters where a person or entity has acquired 5 percent or less in a limited partnership interest, or a 5 percent or less interest in a limited liability company, and must be, thereafter, registered with the Board. The proposed amendment would simply indicate that such registration with the Board must occur prior to interest being acquired, and not afterward.

Last, section 8 of NRS 463.670 would be changed to incorporate regulatory requirements that have already been enacted at the Nevada Gaming Commission level in the form of regulations regarding independent testing laboratories (ITL). After Assembly Bill No. 279 of the 76th Session was enacted regarding ITLs, and pursuant to its enabling language, the Commission enacted regulations as part of our Regulation 14 that govern the ITLs.

These were noticed and vetted according to the Commission's regulatory processes and have been up and running for several months. The requested changes to the statute simply formalize what is already in the regulations.

I would like to report that one of the sections of our proposal that is specifically related to taxation of interactive poker tournaments is still being discussed with members of the Nevada Resort Association. They are free to come forward and talk about those discussions, but it is my understanding that we are generally on the same page. There may be additional detailed matters that we need to discuss, in which case, we may possibly be back to you with an amendment.

Assemblywoman Spiegel:

How is gross revenue defined? Does that include money that people bet, or is it just the money that the casino keeps after all bets are settled?

A.G. Burnett:

Generally speaking, what the casino takes in is net profit. That is a simple answer to a really complex discussion. There is more to it than that, but that is the general model.

Assemblywoman Cohen:

I am looking at section 8, subsection 11, on page 10.

A.G. Burnett:

My pages are different from yours. Are you referencing the change to NRS 463.670?

Assemblywoman Cohen:

It is section 8, the next to last paragraph that starts, "If a person fails to submit an application for a finding of suitability within 30 days"

Chairman Frierson:

That is section 8, subsection 11.

Assemblywoman Cohen:

The last line says the Chair has sole and absolute discretion about extending periods. Since it talks about sole and absolute discretion, is that standard? Does the Chair tend to have that much sole and absolute discretion in other statutes and regulations?

A.G. Burnett:

Yes, it is a somewhat cursory or routine issue that we are looking at. Yes, there are other areas in the statutes and in regulation that allow the Chair to extend certain timelines and certain deadlines. In this case, it mirrors the regulations that have already been crafted. The issue would be to grant leeway to a person who does not have the time or a proper reason to fulfill the mandates of that section.

Assemblyman Ohrenschall:

On page 4, line 6, can you explain "disaster recovery services"? Does that happen often with the machines and computers?

A.G. Burnett:

No, that does not happen very often. That is something we are preparing for in case it does happen.

Assemblyman Ohrenschall:

If it does happen, is that the recovery of the brain of one machine or of the entire interlinked system?

A.G. Burnett:

It would depend on the disaster that we are talking about. Hopefully, it would not be too major. Our concern is things that you would call acts of God: earthquakes, floods, fires, et cetera. It is to know where the data will be stored and how it will be recovered. There are a lot of technical requirements regarding the games played, the wagers that have been made, and the possible payouts that might need to be recovered immediately in order to account for and help patrons who may deserve money, or for revenue accounting.

Assemblyman Ohrenschall:

On that same page, the new exception at lines 12 and 13 excludes the bartenders whose duties do not involve gaming activities. Will that relieve a great number of employees from having to be approved?

A.G. Burnett:

I am not sure if it would be a great number of employees, but it would relieve some confusion that is out there. Yes, there would be a percentage of people who would otherwise be called forward for registration that would not have to be now. Essentially, the intent is to capture any person in that type of employment who touches the gaming device or the gaming functions. Those people who currently do not have a role affiliated with gaming are sometimes captured, and our desire is to let them go and not worry about them.

Assemblyman Ohrenschall:

Regarding section 8 and the new requirements on the ITLs, is this a codification of current regulations?

A.G. Burnett:

It absolutely is. Those are already contained in Regulation 14 regarding ITLs. These are almost word for word from Regulation 14.

Chairman Frierson:

Are there any other questions? In sections 6 and 7, the changes that we are proposing go from limited partners who hold a 5 percent interest or less to a person seeking to hold more than 5 percent. Staff pointed out, and I can imagine, the practical situation where someone holds the interest, there is a problem, and then he faces the challenges of dealing with licensing instead of handling it before. Can you elaborate for the record the need for that change?

A.G. Burnett:

You hit the nail on the head. In the case of partnerships now, every general partner—and this is in the context of nonpublicly traded entities—has to be licensed. Every limited partner with greater than 5 percent has to also be licensed. The clarification seeks to correct the situation where someone comes in having already acquired that higher percentage, then registers. What we are trying to do is capture partners prior to their acquisition of that percentage. You will find the same theory regarding NRS 463.5735 and limited liability companies. Right now, every member with greater than a 5 percent interest, and every manager, has to be licensed. What we are trying to correct is the case where someone comes in saying that he has already acquired the higher percentage and wonders what happens next. If the person is found unsuitable, we have to go back and unwind that transaction after it has already occurred. We would like to have them prepare their registrations and applications to submit prior to the acquisition of that share. It goes in line with the general theories contained in all of our laws.

Assemblyman Martin:

The last section, section 8, subsections 10 and 11, talks about suitability of applicants. What is "suitability"? Are you checking credit scores? Are you checking for bankruptcy or violations? Is this what you have been doing, or is this something new? Is this just more of the same? What is "suitability" versus "unsuitability"? If they are deemed unsuitable, is there a remedy they can follow to become "suitable"?

A.G. Burnett:

Generally, the suitability requirements are what you are probably thinking. They have to be people, or an entity, of honesty, fitness of character, high integrity, et cetera. We do check virtually everything. In the case of an individual's background, we need to ensure they have no affiliations that may cause us concern. We need to ensure they are people who have been forthright and honest with us in the application process. There is no standard of perfection. There are people and entities who obtain licenses—or approvals—that have blemishes on their record; for example, someone with a DUI may get a license. That is not an automatic disqualifier. What probably is an automatic disqualifier is if they are a member of the Mafia or something that makes it completely inappropriate for them to hold a gaming license, or someone who has willingly lied to us. That is always a big issue.

Assemblyman Martin:

That helps, but are there any absolute standards, such as a person's credit score? Are there any other litmus tests?

A.G. Burnett:

No, not offhand. We do not look at credit scores and deem them unqualified based on a certain number. The general standards are that the person has to be of integrity, honest, have high character levels, and fitness for the particular business purpose for which they are applying.

Chairman Frierson:

If I may, you indicated this is verbatim from existing regulations with respect to suitability already.

A.G. Burnett:

There may be a couple words that are a little different, but everything is already contained in Regulation 14. I believe it begins at 14.410 and goes on to 14.420.

Chairman Frierson:

Are there any other questions from the Committee? Seeing none, I would ask that you keep us informed about where this is going.

A.G. Burnett:

We will keep you up to date.

Chairman Frierson:

I will invite those who wish to testify in support of the bill to come forward, both in Carson City and Las Vegas.

Dan R. Reaser, representing the Association of Gaming Equipment Manufacturers:

The Association of Gaming Equipment Manufacturers (AGEM) is a homegrown trade association of over 125 manufacturers and distributors of gaming devices, slot machines, and gaming equipment worldwide. We are not opposed to S.B. 9 (R1) and I am here to ask two things of you. First, that you put into the record my prepared testimony ([Exhibit D](#)), which we submitted to the Committee yesterday. Second, allow me to briefly touch on some points in that testimony. The purpose of that testimony is to put on the record the understanding we have with the Gaming Control Board as to the scope and intent of the amendments in section 2 of S.B. 9 (R1) on the expansion of the work registration requirements as it will apply to IT personnel that are employed by the casinos.

We understand the purpose of the Gaming Control Board in seeking this change. In discussions with the Board on behalf of AGEM, we want to make sure the Committee, and those who might look to this change in the law in the future, will have a robust record as to the scope of the intent of the change. It is to require employee registration for technicians working for casinos or their affiliates managing or servicing regulated computer hardware and software, and doing so from a physical location in Nevada where computer equipment is located. It is only intended to reach those points of contact by employees.

The important points in discussions with Chairman Burnett are three in number. Certain classes of employees of manufacturers and distributors of gaming equipment are already required to have work permits or work registrations. Many of them do not have requirements. There are three particular points of contact that we want to make sure are not going to be covered by this new statutory expansion. One of those is similar to one of us having a problem with our computer; we might be able to call a help desk. The manufacturers and distributors will maintain those help desks so a casino employee who has a work permit pursuant to the statutory expansion may call a manufacturer's help desk operation. It could be in Nevada, Chicago, or wherever. They want to ask questions about how to walk through some part of the hardware or software that they are having problems with. It is not intended that this person, who is not on the premises of the license location, will need to have a work permit or registration. The person calling them from the casino will have that work permit, but we do not need duplicative work registrations.

The second category of employees that would not be covered by this new statutory expansion is those who are service technicians. Like the cable repairman who might come to your house to repair something that is wrong with the software or hardware, manufacturers or distributors may dispatch a technician to the casino who will go on the premises in the custody and presence of a work-permitted casino employee, be given access to a computer system, and make the repairs or improvements that are requested. Again, we are not seeking to have duplicative work permits in this case, and the technician from the manufacturer or distributor would not need to have a work registration. The third large category of folks that we are not intending to capture is those who provide training. After a new software program is installed in a computer facility of a casino, the manufacturer and distributor may provide one or more training sessions where they will actually come to the cold room—where the computer is—and walk employees of the casino through procedures; for instance, an emergency shutdown procedure. While they may have access to the equipment, they are doing so in the presence of those who have work permits. They have permission to be on the premises and are there to train those folks who hold the work permits and registrations and would actually perform that function. For the purposes of doing the training session, they do not have to apply for or obtain a work registration.

With the clarification of the intent to change the statute, there is no need to change the language. The language fairly reflects what is intended, but the folks at AGEM and the Board, through Chairman Burnett, wanted to ensure the record was clear as to the scope and intent of the legislation. I know the Chairman is present, and I believe he concurs with the statements that I have made and my written testimony.

Chairman Frierson:

I believe the Chairman does concur. Are there any questions from the Committee at this time? I believe there is now a proposed amendment on the Nevada Electronic Legislative Information System (NELIS). We look forward to the stakeholders continuing to work this out. There appears to be an effort to do that.

Is there anyone else wishing to offer testimony in support either here or in Las Vegas? [There was no one.] Is there any opposition? [There was none.] Does anyone want to offer testimony in the neutral position? I see no one, so I will close the hearing on S.B. 9 (R1). We will also open the hearing on Senate Bill 17.

Senate Bill 17: Revises the deadlines by which certain gaming licensees are required to file financial reports and pay certain fees. (BDR 41-332)

A.G. Burnett, Chairman, State Gaming Control Board:

I am here to discuss Senate Bill 17. This is a very cursory, or easy, series of changes. In various provisions of the gaming statutes, there are certain reporting deadline requirements that all speak to the twenty-fourth day of each month. It happens that most other states in the Union that have gaming, and the financials of most publicly traded companies, have reporting deadlines that are actually sooner than that. What we propose to do is change that deadline from the twenty-fourth to the fifteenth—nine days earlier—to be in line with other states and their reporting of gross gaming revenues, and in line with the publicly traded entities whose deadlines for closing the books are usually around the tenth day of each month. This is something we feel will help Nevada get its numbers out to the public sooner, and will enable publicly traded companies that have gaming licenses to do so, as well. That is a short summary.

Assemblyman Wheeler:

Have you done a study or asked any questions regarding what getting the information out more quickly will cost the gaming corporations?

A.G. Burnett:

No, we have not done any studies. However, we have polled all of the licensees who may be affected by this, and, to my knowledge, none of them have had an objection. We feel it is just moving up the deadline nine days and should not incorporate much overhead or material cost.

Assemblywoman Cohen:

At any given time, approximately how much is floating around the state in unclaimed vouchers?

A.G. Burnett:

Unfortunately, the chief of audit is in Las Vegas and has just left. She is the one who could report those numbers to you. I do not think it is a lot. I have heard numbers; however, I do not want to mischaracterize my testimony. As you recall, the unexpired-voucher law was passed last session. I believe the state has received roughly \$2 million to \$3 million in revenue. I can get back to you with more information.

Chairman Frierson:

I am curious about the date that is in statute now—the twenty-fourth—and why that was ever selected.

A.G. Burnett:

I wondered that myself when I was testifying just now; I am sure I heard the answer. As with many of the dates in our statutes, there really is not a rhyme or reason to my knowledge.

Chairman Frierson:

Maybe one year it was Christmas Eve and they said that will be the day.

A.G. Burnett:

It could be, because that is the only significance of the twenty-fourth that I can think of.

Chairman Frierson:

Is the fifteenth consistent with what other states are doing?

A.G. Burnett:

Yes, it is. Moving this date up by nine days allows us to report the numbers quicker and in line with those states. It is also our understanding that most companies' books close on the tenth. It would still give them five days thereafter.

Chairman Frierson:

Are there any questions? I see none. I will now invite anyone wishing to offer testimony in support to come forward.

Dan R. Reaser, Private Citizen, Reno, Nevada:

I am not appearing on behalf of a client. I just told the Chairman that, as someone who was general counsel to the Board and Commission a long time ago, I had the answer. The twenty-fourth of the month was set as seven days before the end of the typical calendar month. That is the only reason.

Chairman Frierson:

Is there anyone wishing to offer testimony in opposition? I see no one. Is there anyone who is neutral? I see no one, so I will close the hearing on S.B. 17.

Before I open it up for public comment, I want to note that it is Administrative Professionals Day and it is important to reiterate that we could not do our jobs if not for the folks who help us out. It is a lot that we ask of our employees, so I think it is important for them to know how much we appreciate them and how protective we are of them. What we go through, they go through with us.

With that, I will open it up for public comment. Since there is no one, I will now adjourn the meeting of the Assembly Judiciary Committee [at 9:42 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 24, 2013

Time of Meeting: 9:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
<u>S.B.</u> 9 (R1)	C	A.G. Burnett	Proposed Amendment
<u>S.B.</u> 9 (R1)	D	Dan Reaser	Written Testimony