

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session
March 31, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:47 p.m. on Tuesday, March 31, 2015, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Greg Brower, Chair
Senator Becky Harris, Vice Chair
Senator Michael Roberson
Senator Scott Hammond
Senator Ruben J. Kihuen
Senator Tick Segerblom
Senator Aaron D. Ford

GUEST LEGISLATORS PRESENT:

Senator Mark Lipparelli, Senatorial District No. 6

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Lynette Jones, Committee Secretary

OTHERS PRESENT:

Bruce Leslie
Mark Clayton, CG Technology
Quinton Singleton, CG Technology
A.G. Burnett, Chair, State Gaming Control Board
Michael Buckley, Real Property Law Section, State Bar of Nevada

Chair Brower:

I will open the hearing on Senate Bill (S.B.) 443.

SENATE BILL 443: Revises provisions governing the acceptance of race book and sports pool wagers. (BDR 41-1135)

Bruce Leslie:

I support S.B. 443. This bill is an evolutionary step in expanding the forms of business entities that can place legal sports pool and race book wagers in Nevada. Natural persons and partnerships can place sports pool wagers in Nevada. In 2010, I was contacted by a client who wanted to use another form of business entity to place wagers. Legislation was introduced at the 2013 Session and passed by the Senate but was never put to a vote in the Assembly. My subsequent experiences have confirmed there is a demand by patrons to use different forms of entities for wagering activities. The CG Technology and I have worked with the State Gaming Control Board to develop this bill for consideration.

I provided written testimony ([Exhibit C](#)) that includes proposed amendments to S.B. 443. After submitting the proposed amendments, I met with the Gaming Control Board to rework the bill based on the Board's concerns. I will clarify the proposed amendments for the Committee.

Senate Bill 443 is an expansion of race book and sports pool wagering as already permitted. The expansion will allow account wagering for business entities that qualify under provisions of the bill. Under the prior draft, the registration process was a responsibility of the Gaming Control Board. In our meetings this morning, that responsibility has been removed and the same information is to be provided to the licensee as is done when a person sets up an account-wagering relationship. This removes the fiscal impact on the Gaming Control Board and removes the new regulatory and investigative obligations for the Board. The bill will treat business entities in a fashion similar to how individuals and groups of individuals are allowed to account wager.

The NRS 463 sets forth minimum records that the licensee is required to keep to allow business entities to account wager. The statute is clear that it does not require the licensee to accept the business entity as an account-wagering client. The statute requires the business entity to have a Nevada bank account and keep those records in Nevada. Senate Bill 443 does not change what

constitutes legal race book and sports pool wagering. That remains the same. It does clarify messenger-betting. If you are a business entity with a wagering account, you are not messenger-betting, and individuals acting on behalf of the business entity are not messenger-betting by the sole act of complying with the statute.

Chair Brower:

I received inquiries from the press and others about this bill in its original form. The issue of messenger-betting came up. Can you clarify for the Committee what messenger-betting is and why this bill is not messenger-betting under law?

Mr. Leslie:

Messenger-betting is when someone places a wager on behalf of another for compensation. Someone acting on behalf of the entity is not a messenger bettor because he or she is placing that wager in the role of an agent of the entity. The agent of the entity is compensated as opposed to one person giving another \$5 to place a wager.

Chair Brower:

That is my understanding as well. Mr. Clayton, do you agree with Mr. Leslie's explanation?

Mark Clayton (CG Technology):

Mr. Leslie provided an accurate explanation of messenger-betting. This bill does not modify the Board's rules and regulations around messenger-betting.

Mr. Leslie:

I want to clarify that the bill does not affect applicable federal law on sports pool wagering. It is neutral on that issue. It does provide that the Nevada Gaming Commission can adopt regulations to address wagering activities of the business entity. The bill makes it a Category D felony for any person to submit false records in the process of applying for a wagering account, to pay revenue or profit to an undisclosed person, to make wagers for undisclosed persons, or to accept funds from disclosed persons who are used for wagering by the entity. To clarify with regard to other contemporaneous legislation, S.B. 443 makes it clear that if the entity acts in compliance with NRS 463, it is not engaged in accepting or facilitating unlawful wagers.

Quinton Singleton (CG Technology):

I support S.B. 443. Account wagering is permitted in Nevada, and individuals sign up for an account through an application process with a licensee. The bill will allow an entity to fill out the application form and sign up for an account. That is the basic concept and scope of the bill. We think this will increase people coming to Nevada and engaging in this activity. Our hope is this change will drive the economy.

I want to state that race and sports books have discretion in terms of whether they will accept clients. Just as if you wanted to take on another player as an operator, you can say yes or no. We will work on getting the proposed amendments to the Committee.

Chair Brower:

Nevada has a high standard in gaming regulations, and those who are charged with upholding the standard are the most important players when it comes to changing our rules and regulations.

Senator Ford:

I do not have an adverse reaction to what you are doing with this bill. I do wonder about the downside. I know you are working with regulatory entities to build a framework. I suspect the Gaming Control Board will now need to regulate for businesses as well. What do you anticipate being the downside of allowing entity wagering in this instance?

Mr. Clayton:

We do not see a downside of S.B. 443. We believe this bill provides more transparency. In addition to State regulation and the obligation for a gaming licensee to know its customers, there is a full federal overlay of the Bank Secrecy Act of 1970, New Suspicious Activity Report and the New Currency Transaction Report. The intention of the bill is to provide an opportunity to bring more visibility and better compliance with those provisions.

As with any law, someone could choose not to follow it or disregard elements of the law. Any one person can do only so much to prevent that from happening. To complete the record, we have been working with the Gaming Control Board, and we believe the Board conceptually concurs with the proposed amendments.

Chair Brower:

I appreciate your willingness to work with the Board since you must reach a consensus on the right language. I did not intend to suggest the Board is collaborating on the bringing of this bill, and we all understand this. Mr. Clayton, as a former regulator, I suspect when you consider ideas like the one put forth in this bill, you think about how this may work from the regulators' perspective given the regulatory requirements the Legislature expects. Can you inform us, specifically in the area of disclosure of an individual who opens a wagering account? Help the Committee understand exactly what this bill provides in terms of how the regulators identify an entity.

Mr. Clayton:

In order to set up the account, the entity must disclose all its officers, directors, equity holders, creditors and anyone who has a right to share profits. Failure to do so will result in criminal penalties for the company that fails to make that full disclosure. It creates the basis for the entity to do its know-your-customer requirements and to ensure the source of the funds are appropriate based on federal guidelines. That is the primary function, but that burden sits on the licensee. We are not imposing an additional burden on the Gaming Control Board. At the same time, the Gaming Control Board under the existing regulatory system and statute has the full ability to access all the licensee's information and, more important, discipline a licensee if it conflicts with any state, federal or local law in its operations. While the Board is not at the forefront of this effort, it still has plenty of authority vis-à-vis the licensee and the Nevada Gaming Commission and State Gaming Control Board Regulation 5: Operation of Gaming Establishments.

A.G. Burnett (Chair, State Gaming Control Board):

I am here to answer questions the Committee has for the Gaming Control Board. The previous testifiers were correct in stating that we had dialogue regarding S.B. 443, and the parties are agreeable to our changes, suggestions and revisions. Mr. Clayton's last statements were correct regarding the impact on the Board and the shifting of regulatory obligations from the Board in an active fashion to putting the burden on licensees who choose to accept a wagering entity.

Chair Brower:

I am confident if we continue to work together on this bill to a final product, we will have something that works from both the industry perspective and the regulatory perspective.

Mr. Clayton:

Once the Board takes a final look at the proposed amendments and we receive their concurrence, we will formally put the proposed amendments before the Committee for consideration. We want Chair Burnett to review the language.

Chair Brower:

When that happens, the Committee will review the proposed amendments. I will close the hearing on S.B. 443 and open the hearing on S.B. 445.

SENATE BILL 445: Revises provisions relating to race books and sports pools.
(BDR 41-1134)

Mr. Singleton:

I support S.B. 445. I have provided my written testimony ([Exhibit D](#)). In Nevada and other jurisdictions, the race book and sports pool industry operates on a centralized management model. An operator can provide the betting technology and data to offer propositions to the public on races, sports and other events and manage the financial exposure associated with accepting those wagers for multiple sports books. This service is provided from a central location in Nevada whether the books are located in Nevada or another jurisdiction. Senate Bill 445 would codify this permitted practice in Nevada. The bill would also empower the Nevada Gaming Commission with the advice and assistance of the Gaming Control Board to adopt appropriate regulations governing the operations of global risk management by its licensees, including establishing minimal internal controls and operational standards.

The bill contains definitions for global risk management; it states where this can be conducted; it specifies the communication technology that will be used; and it makes conforming changes to confirm these permitted activities are not otherwise criminal violations of NRS 465 of the Gaming Control Act. We also submitted a proposed amendment that provides a slight clarification in terms of deleting four or five words that will clarify the scope of global risk management.

Mr. Clayton:

Senate Bill 445 does not place any burdens or obligations on gaming licensees that would choose not to provide these services. The bill would be applicable only if a company wants to provide global risk management. If a company chooses not to pursue that line of business, there would be no obligations imposed. We have been working with the Gaming Control Board on the bill and the Board concurs with the approach.

Chair Brower:

I assume what this bill seeks is allowable in law, and this bill is intended to provide clarification and further details.

Mr. Clayton:

Yes. What is contemplated by this bill is already permitted under gaming statutes and regulations. When speaking to other regulatory bodies, we are asked what is allowable under Nevada law. We want the ability to refer to law instead of asking for an interpretation from the Board or the Commission.

Senator Lipparelli:

I have clients who operate in this area, and I point out to the Committee that there is a continuing dialogue occurring across the Country about the possibility of the expansion of sports wagering beyond Nevada. This bill seeks to create a better opportunity for the State to be the home for risk management if that were to occur.

Today, we have only one state in the Country that has widespread sports wagering—and that is Nevada. Unless there were movement at the federal level or some new interpretation of a law that allows other states to join in this notion of global risk management, Nevada becomes important in the big scheme of things. Setting this up now puts us in a better position than if we do this later when the dam breaks loose and sports wagering is authorized throughout the United States. This is an important concept, and S.B. 445 is critical to the operators in Nevada.

Mr. Burnett:

I can confirm that information provided by Mr. Clayton is correct.

Chair Brower:

I will close the hearing on S.B. 445 and open the hearing on S.B. 453.

SENATE BILL 453: Revises provisions relating to real property. (BDR 3-1085)

Michael Buckley (Real Property Law Section, State Bar of Nevada):

I will testify in support of S.B. 453. I have submitted my written testimony ([Exhibit E](#)). This bill came through the Real Property Law Section of the State Bar of Nevada. It has been vetted through the State Bar's Board of Governors as well as the Real Property Law Section. Since 2009, a number of additions to NRS 40 dealt with foreclosures and deficiency judgments. New provisions added were self-contained, created their own definitions and were not put together in light of the overall scheme. We went through NRS 40 and eliminated duplicate definitions and created a definitions section.

Sections 2 through 5 of the bill have definitions that are not new terms. They are taken from different places in the statutes and placed in a central location.

Section 6 deals with foreclosure mediations in judicial foreclosures. In 2013, NRS 107.086 was amended to make the trustee mediation opt out instead of opt in. This change will make judicial foreclosure mediation the same as nonjudicial sale foreclosure.

Section 7 amends NRS 40.440 to clarify and simplify existing language.

Section 8 deals with the commencement of a deficiency proceeding. The deficiency proceeding is commenced by what the statute refers to as an application. We added a provision to make it clear if a lender sues a guarantor before a foreclosure, the application could include an existing lawsuit. A new lawsuit need not be filed. The remainder of the sections creates new defined terms.

We have two corrections to the bill. The first correction is in section 4, which defines a mortgage or other lien. Section 4 excludes a common-interest community assessment and refers to NRS 116. We think it should also exclude a condominium hotel assessment as well as a common-interest community assessment. There should also be a reference in section 4 to NRS 116B.

After the bill was submitted, it was determined that NRS 40.430 needed clarification based on 2013 Session amendments to NRS 107.080, subsection 2, paragraph (c). Our proposed amendment clarifies that an action

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determining the ownership of the note under NRS 104.3309 is included in the Uniform Commercial Code exemption.

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Chair Brower:

The Committee will review your proposed amendments and move quickly to get the bill finalized. I will close the hearing on S.B. 453 and open the meeting for public comment. Seeing no public comment, I will adjourn the meeting at 2:14 p.m.

RESPECTFULLY SUBMITTED:

Lynette Jones,
Committee Secretary

APPROVED BY:

Senator Greg Brower, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	5		Attendance Roster
S.B. 443	C	3	Bruce Leslie	Written Testimony
S.B. 445	D	2	CG Technology	Written Testimony
S.B. 453	E	6	Real Property Law Section, State Bar of Nevada	Written Testimony