

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES
COMMITTEE ON CASINOS
JANUARY 9, 2004
DRAFT MINUTES

The Committee on Casinos of the National Council of Legislators from Gaming States (NCLGS) met at Harrah's Las Vegas on Friday, January 9, 2004, at 1:30 p.m. Sen. Steven Geller of Florida, NCLGS President, presided.

Other legislators present were:

Rep. James Buskey, AL
Rep. Kevin Ryan, CT
Rep. Bill Oberle, DE
Sen. Pete Brungardt, KS
Rep. Bill Mason, KS
Rep. Dan Ward, MO
Rep. Chris Sainato, PA
Rep. Thomas Van Norman, SD
Rep. Talmadge Heflin, TX

Others present were:

Bob Mackin, Mackin & Company, NCLGS Executive Director
Susan Nolan, Mackin & Company, NCLGS Deputy Executive Director

MINUTES

The Committee voted unanimously to approve, as submitted, the minutes of its September 5, 2003, meeting in Newport, Rhode Island.

UPDATE ON STATE AND FEDERAL LEGISLATION AFFECTING THE CASINO INDUSTRY

Mr. Walton Chalmers, Vice President-Government Affairs of the American Gaming Association (AGA), reported on casino legislation in the states and on Capitol Hill in 2004.

Mr. Chalmers said there were two regulatory issues that could affect all of the 11 states that have authorized casinos.

Mr. Chalmers said that one regulation related to "tip employees." He said that Nevada was the one state that had a "tip agreement" with the IRS. He said that the IRS had identified specific jobs, e.g. cocktail servers, valets, and others whose primary income source is tips, in which people could sign up voluntarily for an IRS withholding

program. Now, he said, as a result of recently concluded discussions between the IRS and the AGA, a national agreement will be in effect in each of the 11 states with casinos. He said the IRS would start implementing the agreement in Detroit, Michigan.

Mr. Chalmers said the other regulation related to the Maritime Security Transportation Act which, he said, was part of the Patriot Act and related to Coast Guard supervision of casinos that float, including dockside casinos and "boats in moats." He said the AGA had gathered its security experts who specialize in casinos on water, and developed an alternative security plan which complied with the regulations. He said that AGA members, as of December 31, 2003, could sign on to the alternative plan.

In response to a question from Rep. Sainato, Mr. Chalmers said that the IRS guaranteed employees who signed up for the IRS tip program that they would not be audited for years prior to their signing up.

Mr. Chalmers also discussed ongoing issues.

Mr. Chalmers said the AGA was addressing Internet gambling. He said the U.S. House Financial Services Committee had reported a bill that would have barred use of credit cards in unlawful Internet gambling. He said the AGA did not oppose the bill. He said the Senate Banking Committee had reported a somewhat different bill. He said the AGA opposed that bill because it did not have a states' rights provision¹. Sen. Geller noted that there would be a NCLGS general session on Internet gaming the following day.

Mr. Chalmers identified an initiative aimed at sports betting issues. He said the bill targeted sports betting in Nevada and that its supporters believed it would address problems related to sports betting across the country. He said the AGA would argue that Nevada sports betting and sports betting across the country were unrelated. He noted that Nevada, the only state that permits betting on college and professional sports, does so with strict regulation, policing, and taxation. But, he said, Nevada accounts for only one percent of the estimated \$380 billion in sports betting enterprises in the country. The rest of the sports betting in the U.S. is illegal, he said. He also noted that sports betting was important to casinos because it attracted customers.

Mr. Chalmers also reported on what he called the "Deadbeat Dad Proposal," which, he said, would have casinos policing parents in arrears on their child support. He said the bill would have casinos check jackpot winners' names against lists of deadbeats. He said the bill would place a heavy burden on casino managers. He said the AGA would oppose the bill.

Mr. Chalmers said that AGA members often faced tax issues. He said that, prior to development of the above-referenced tip tax issues, AGA members had faced an issue related to employee meals. He said that, for years, casino employees had received an hour off and a free meal. He said that the IRS had proposed to back tax the employees

¹ For more information, see minutes of NCLGS State-Federal Relations Committee, January 9, 2004.

for that benefit and well as the employer for the deduction they had enjoyed. He said that the AGA had succeeded in defeating that tax proposal.

Mr. Chalmers said other tax issues that came up related to casino equipment. He said that equipment depreciates over a seven-year period and hotel equipment over a five-year period. He said that the AGA believed gaming equipment depreciation categories needed a general overhaul. He pointed out, for example, that present rules provided for different treatment of carpeting on the hotel and casino sides of a single building.

In response to a question from Sen. Geller, Mr. Chalmers said nothing was happening in Congress with regard to "cruises to nowhere." He noted that companies that do cruises to nowhere were not members of the AGA.

Rev. Tom Grey said that he questioned two comments that Mr. Fahrenkopf had made in a previous meeting during the conference. He said that casinos that claimed they were being taxed too much needed to open their books to legislators. He also said that localities that had gaming would never vote it out because they had become addicted to the revenue. But, he pointed out, in Iowa in the last two months of 2003, five communities out of eight had voted resoundingly to reject gambling. He said that his scorecard showed 45 battles, 42 victories, and only three losses. He said those numbers showed that gambling was not inevitable and not even desirable.

Mr. Chalmers noted that where taxes are too high, gamblers go to other jurisdictions

EFFECTS OF SMOKING BANS ON THE GAMING INDUSTRY

Mr. Steve Barringer, representing MGN, Inc., a Washington, D.C. government relations firm, said the firm worked on smoking bans on behalf of the AGA. He said that the AGA sought to avoid strict bans on smoking, but saw the need to address the issue through non-smoking sections and ventilation solutions.

Mr. Barringer said that in 1994 the gaming industry had commissioned a study on the economic impact of a then-contemplated ban on workplace smoking. He said the study showed that, at the time, such a smoking ban would cause the loss of \$1 billion in revenue to the gaming industry.

Mr. Barringer presented an overview of state smoking bans and partial smoking bans. He said that several states, including California, Connecticut, and New York, have strong bans against smoking. He said that Florida and Utah ban smoking in restaurants. He also said that there were local restrictions in several other states.

Sen. Geller added that Florida has a 100 percent ban on smoking in the workplace. He said some states had enacted preemptions, meaning that the localities could not act to ban smoking until the state permitted them to do so. He said that New

Jersey had enacted a preemption which, in effect, ensured that smoking cannot be banned in casinos.

Mr. Barringer said that more than 100 economic impact studies relating to smoking bans had been done within the last ten years. He said that one truly helpful study was available online. He said the organization was a public health group that favored smoking bans. He said the report also identified other studies relative to smoking bans. He said that some studies looked at objective data like sales tax receipts before and after the effective dates of smoking bans.

Mr. Barringer also noted that the impact of smoking bans on casinos could be different from their impact on restaurants. He noted that when people leave a restaurant for a few minutes to smoke, this does not affect the restaurant's income. He said that this was not so when a smoker left a casino and stopped betting. He said he believed that a smoking ban could have a significant negative impact on the hospitality industry.

Rep. Ryan pointed out that while Connecticut has a smoking ban, it does not apply to casinos, which are all owned by Indian tribes.

In response to a comment from Rev. Grey, Rep. Oberle said that revenue had dropped 28 percent at Delaware tracks since implementation of a smoking ban. He emphasized that the information was factual, not anecdotal. He said that Delaware restaurants were mixed as to the economic impact of the ban.

Mr. Mark Van Norman, representing the National Indian Gaming Association (NIGA), said that tribal governments looked at public health issues. He said that a number of Native American casinos had banned smoking and alcohol.

CLASS II V. CLASS III GAMING

In response to a question from Sen. Geller, Mr. Bill Buffalo, Vice President and General Counsel of Harrah's Entertainment, said that the difference between Class II and Class III games was that Class II games were played with no random generator, and that Class III games used such generators.

In response to a further question from Sen. Geller, Mr. Buffalo said a game is a Class III game if it has a random number generator either in its box or at a central location. In such games, he explained, the player is playing against the machine, and the game is banked by the house.

Sen. Geller said that the question of whether games run by tribes were Class II or Class III arose frequently.

ADJOURNMENT

There being no further business, the Committee adjourned at 2:30 p.m.

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