

Maryland Lottery and Gaming Control Commission

Wes Moore, Governor



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MARYLAND LOTTERY AND GAMING CONTROL COMMISSION JULY MINUTES

DATE: July 27, 2023

TIME: 9:00 a.m.

PLACE: Maryland Lottery and Gaming
Virtual Meeting

PRESENT: Chair E. Randolph Marriner
Vice Chair George L. Doetsch, Jr.
Commissioner F. Vernon Boozer
Commissioner Diane M. Croghan
Commissioner Harold E. Hodges
Commissioner James J. Stakem
Commissioner Jerry E. Williams

John Martin, Director
James Nielsen, Deputy Director, Chief Operating Officer
James Butler, Assistant Deputy Director, Chief of Staff
Michael Eaton, Managing Director, Gaming
Seth Elkin, Managing Director, Communications
Holly Citko, Principal Counsel, Attorney General's Office
Jennifer Tosky, Deputy Counsel, Attorney General's Office
Kathy Lingo, Executive Assistant

QUORUM ESTABLISHED

Chair Marriner announced that there was a quorum present for the meeting. Also present via video conference were: Vice Chair George Doetsch, and Commissioners Diane Croghan, Harold Hodges, James Stakem and Jerry Williams. Present via audio conference was Commissioner Vernon Booser.

CALL TO ORDER

Chair Marriner called the meeting of the Maryland Lottery and Gaming Control Commission to order at 9:00 a.m.

APPROVAL OF THE AGENDA

Chair Marriner reported that the Commissioners were provided with a copy of the agenda. Chair Marriner asked for a motion to approve the revised agenda. Vice Chair Doetsch motioned to approve, Commissioner Stakem seconded, and the motion was unanimously approved.

APPROVAL OF THE MINUTES

Chair Marriner asked if there were any changes to the minutes of the June 22, 2023, Open Session. There being none, Chair Marriner asked for a motion to approve the minutes. Vice Chair Doetsch motioned to approve, Commissioner Stakem seconded, and the motion was unanimously approved.

Chair Marriner asked if there were any changes to the revised minutes of the April 27, 2023, Open Session. He noted there was a technical correction required to make it clear that it was the casino for sale and not Rocky Gap Lodge. There being no comments or corrections, Chair Marriner asked for a motion to approve the revised minutes. Commissioner Stakem motioned to approve, Vice Chair Doetsch seconded, and the motion was unanimously approved.

COMMISSION ACTION ITEMS

Deputy Director, Chief Operating Officer – James Nielsen

Commission Action Item – Contract Award for Consulting Services Related to iGaming Operation in Maryland and Licensed States (Contract #2023-05)

Mr. James Nielsen apologized for the short notice in getting this Commission action item to the Commissioners for review and explained that the Evaluation Committee was able to review the proposals MLGCA received and make a recommendation to the Director this week. MLGCA wanted to give the consultant and Staff as much time as possible to prepare the report.

Mr. Nielsen reported MLGCA issued an RFP on June 5, and received five proposals by the July 17 due date. The Evaluation Committee reviewed the proposals, came to a consensus ranking, and gave a recommendation to the Director this week. The proposal ranked number 1 technically was submitted by The Innovation Group. Its financial proposal ranked third, but the Committee believes the slightly higher price is reasonable given the services being provided. MLGCA Staff recommends approval of awarding the contract to The Innovation Group.

Chair Marriner asked how long it would take to do this. Mr. Nielsen responded that the first meeting would be held 10 days after Commission approval of the contract. MLGCA would then work through the timeline with a goal to have a draft of the report by early September.

Commissioner Hodges noted the higher price by The Innovation Group and asked what factors made The Innovation Group more compelling than the other proposals that made it a better value. Mr. Nielsen stated that in reviewing the proposals, MLGCA looked at a number of things including quality of the proposals received, and the history of the organizations submitting bids. Mr. Nielsen recognized the subjective call when reviewing the proposals and needing to make evaluations of what was submitted. The Innovation Group was very strong, has a good team, has done work before in gaming, and MLGCA felt comfortable with its proposal. The price difference was not significant.

Commissioner Hodges asked about the performance difference. He inquired how they performed relative to the other companies. Commissioner Hodges wanted to know how the proposal was better, and what the performance history was for The Innovative Group. Mr. Nielsen noted that all of the companies that submitted proposals have done some kind of gaming studies. It came down to what The Innovation Group proposed. The Staff is strong, where other organizations were not as strong. The quality of the submission was very good, while the others were not as good. There were some minor mistakes by the other offerors. Submissions showing mistakes did not show the care MLGCA was looking for and needs in completing a report in such a short timeframe.

Commissioner Hodges asked what the next phase would be in the process after this discussion such as interviews or negotiations in price. Mr. Nielsen replied that it is a fixed price contract; we will accept that price. The next step would be a meeting to work together with The Innovative Group to discuss questions and work out details on how the research is to be completed. Then develop a schedule and put dates on the calendar.

Chair Marriner asked, having sat and participated in many evaluation committees with this organization, if the procedure was the same as before that MLGCA Staff looked at the technical first and ranked all of them and then secondarily opened the financials and ranked those. Mr. Nielsen stated that was correct and said that The Innovation Group was ranked first technically and then they opened the pricing.

Chair Marriner asked if there were any further questions. There were no further questions. Chair Marriner then asked for a motion to approve the award of the contract to The Innovation Group, New Orleans, Louisiana. Commissioner Jerry Williams motioned to approve, Commissioner Stakem seconded, and the motion was unanimously approved.

Commission Action Item – Proposed Amendments to Regulations for Gaming, Video Lottery Terminals, Instant Bingo Machines and Sports Wagering Subtitles

Mr. Nielsen reported that MLGCA would be presenting for consideration the proposed amendments to regulations in the Gaming; Video Lottery Terminals; Instant Bingo Machines; and Sports Wagering subtitles of COMAR Title 36, which includes most of our regulations. The amendments address changes in statute, industry recommendations received during our annual review process, and Staff recommendations. Mr. Nielsen said that he would go through the proposed amendments and the Commissioners should let him know if there are any questions or concerns. At the end of each Subtitle, MLGCA will ask for a vote after each subtitle to approve the proposed regulations, and at the end a separate vote to delegate to Staff the authority to make non-substantive changes that may be required for publication in the Maryland Register.

Mr. Nielsen then outlined the procedure for regulatory approval of both regular and emergency proposed regulations.

SUBTITLE 03 GAMING REGULATIONS

Proposed amendments to Gaming Regulations include:

Chapter 01 General

Proposed amendments would adjust and clarify definitions, and apply them in subsequent regulations, to address questions the Licensing Division encounters related to ownership interests, and to clarify the existing licensing and fee structure for contractor and manufacturer licenses.

Chapter 02 Investigation and Licensing

Proposed amendments:

- Clarify licensing requirements for certain owners that are known as principal entities
- Noting that video lottery employee licensees can work in sports wagering performing similar duties without submitting a separate license application
- Allow employees ages 18-20 to be on a casino's gaming floor while they are working. This aligns our regulations with statute
- Provide that individual licensees may voluntarily relinquish a license, and later request to be returned to active license status
- Implement HB 1288, which relaxes mandatory disqualification requirements for individuals with misdemeanor records who complete a problem-solving court program
- Delegate to Staff the authority to issue manufacturer licenses
- Correct a drafting error to include manufacturer license applications in the due process required when a license is denied
- Clarify what is and is not a vendor, and streamline the registration requirements for vendors

Chapter 03 Video Lottery Operation License

These amendments implement the casino license renewal requirements laid out in SB 537, and build time into the process for Staff to conduct background investigations before license expiration. It also specifies that license renewal fees accrue to the Education Trust Fund.

Chapter 06 Enforcement of Voluntary Exclusion Program

The proposed amendment requires conspicuous display of the gambling assistance message.

Chapter 08 Collection of Taxes, Fees, and Penalties

These proposed amendments:

- Incorporate casino license renewal fee requirements from SB 537 and amendments to Chapter 03, to ensure consistency with proposed amendments to Subtitle 04, Chapter 02. This explains the calculation of annual Problem Gambling Fund assessments for VLT counts is based on the authorized number of VLTs on the casino's operation license not the high-water mark of installed VLTs.
- Then Staff clarified that the Problem Gambling Fund assessments for table games are based on the high-water mark of tables in operation during the year.

Chapter 10 Video Lottery Facility Minimum Internal Control Standards

These amendments implement industry suggestions to:

- Reduce audit frequency for two non-gaming functions
- Increase the value of check(s) a casino can accept from a player on a single gaming day to \$50,000
- Increase the value of check(s) that can be accepted from a player when the checks are payouts for gaming activity from a Maryland casino or an out of state affiliate of a Maryland casino
- Authorize casinos to accept an ACH transfer from a player to pay off a casino debt, this is in addition to a wire transfer that is already permitted

- Authorize a casino's player tracking system to give players their account information (known as win-loss statements) at a self-service kiosk or the casino's player rewards website

Chapter 11 Facility Standards

The proposed amendment would authorize Agency Staff to approve changes to a casino's gaming floor plan within already authorized VLT and table game counts.

Mr. Nielsen then asked if there were any questions from the Commissioners on Subtitle 03.

While understanding that there is a recurring need to change statutes, Commissioner Hodges requested that there be discussions before the Commission meets to discuss the regulations, as opposed to sending out the actual write up of the proposed changes to the regulations, that there be a summary on top of the write up that breaks out bullet points regarding key issues and changes made so the Commission has a more executive high level view of what is appearing here in the write up, in order to give it the attention it needs, which is difficult to do when what is sent out is great but more of a summary of what Mr. Nielsen stated in the presentation, would be helpful in the future if possible. Mr. Nielsen noted there was a level of detail provided in the 5-page Staff agenda memo sent out to the Commissioners, but if needed it can be made more encompassing.

Chair Marriner asked if there was any further discussion. There being none, Chair Marriner asked for a motion to approve the changes. Commissioner Doetsch motioned to approve modified regulations both emergency and regular to Title 36, Chapter 02 [sic] Gaming Regulations, Commissioner Stakem seconded, and the motion was unanimously approved by roll call.

Mr. Nielsen noted that the section just completed was Subtitle 03. Chair Marriner confirmed it was Title 36, Subtitle 03, not Subtitle 02 as he stated previously. Ms. Holly Citko, Principal Counsel, informed Chair Marriner that the proposed amendments for both emergency and regular must be approved for each Subtitle.

Chair Marriner asked for a motion to approve the proposed amendments to the regulations, both as emergency and regular, to Title 36, Subtitle 03 Gaming Regulations. Vice Chair Doetsch motioned, Commissioner Williams second, and the motion was unanimously approved.

SUBTITLE 04 VIDEO LOTTERY TERMINALS

Proposed amendments to Video Lottery Terminals include:

Chapter 01 Video Lottery Terminal Standards

If the Commission has approved the use of a payable with a payout above 95%, this amendment would allow Staff to authorize that same payable to be used in other casinos.

Chapter 02 Video Lottery Terminal Machines

Proposed amendments:

- Delete a number of obsolete provisions that applied when the Commission purchased VLTs for the casinos, and replace them with requirements to obtain Staff authorization before installing VLTs on the gaming floor
- Delete the requirement that the Commission authorize both temporary and permanent VLT count reductions
- Establishes a process for casinos to make a request once per year for a reduction to the authorized maximum number of VLTs on its license; if Staff approves, the VLT count on the operation license is reduced accordingly

- A casino can adjust VLT counts on the gaming floor at or below the licensed VLT count with prior notice to Staff
- Establish a process for a casino to pay additional license fees required to permit operation of VLTs above the number authorized on the operation license
- Clarifies that the annual assessment to the Problem Gambling Fund is based on the number of VLTs on the license, regardless of whether all VLTs were actually in use in the assessment year; COMAR 36.03.08 has corresponding amendment

Mr. Nielsen asked if there were any questions hearing none he requested a vote to approve the proposed amendments to Title 36, Subtitle 04 Video Lottery Terminals as both emergency and regular.

Chair Marriner asked if there was any discussion. There being none, Chair Marriner asked for a motion to approve the proposed changes to Title 36, Subtitle 04 Video Lottery Terminals on an emergency and regular basis. Vice Chair Doetsch motioned to approve, Commissioner Williams seconded, and the motion was unanimously approved by roll call.

SUBTITLE 07 INSTANT BINGO MACHINES IN ANNE ARUNDEL AND CALVERT COUNTIES

Proposed amendments to Instant Bingo Machines include:

Chapter 02 Application and Licensing

The Agency regulates instant bingo manufacturers consistent with how it regulates gaming manufacturers in Subtitle 03. By the amendments described above, the Commission delegates to Staff the authority to issue a gaming manufacturer license; so, for consistency, this requires similar amendments to clarify Staff's authority over instant bingo manufacturers.

The proposed amendments would also clarify Staff's enforcement authority for instant bingo manufacturers.

Mr. Nielsen asked if there were any questions hearing none he requested a vote to approve the proposed amendments to Title 36, Subtitle 07 Video Lottery Terminals, both as emergency and regular.

Chair Marriner asked for a motion to approve the changes, both emergency and regular, to Title 36, Subtitle 07 Instant Bingo Machines in Anne Arundel and Calvert Counties. Vice Chair Doetsch motioned to approve, Commissioner Stakem seconded, and the motion was unanimously approved by roll call.

SUBTITLE 10 SPORTS WAGERING PROVISIONS

Proposed amendments to Sports Wagering Provisions include:

Chapter 01 General

Proposed amendments:

- Implement amendments regarding ownership and principal entities consistent with proposed amendments to Gaming regulations
- There are new regulations implementing SB 621, which authorizes the Commission to license and regulate independent evaluators, and provides definitions for new terminology in the bill

Chapter 02 All Applicants and Licensees – Applications and Investigations

- Clarifies bond requirements that apply to all sports wagering applicants and licensees
- Implements amendments regarding principal entities consistent with proposed amendments to Gaming regulations

Chapter 03 All Applicants and Licensees – Qualification Requirements

- Clarifies bond requirements for sports wagering licensees
- Removes language related to conducting gaming for 3 years before a license may be transferred because it is addressed in statute

Chapter 04 Specific Requirements for Sports Wagering Facilities Licensees

Proposed amendments:

- Clarify bond requirements for sports wagering facilities, by category – A1, B1, mobile. Most often this refers to performance bonds.
- Implement uncodified portion of SB 621, which authorizes a Class B-2 that became an awardee before February 15, 2023, to request the Commission and SWARC to allow it to change the proposed facility location identified in its applications

Chapter 05 Specific Requirements for Mobile Sports Wagering Licenses

Proposed amendments would clarify bond requirements for mobile sports wagering licensees

Chapter 06 Specific Requirements for Other Licenses Required for Sports Wagering

Proposed amendments:

- Clarify bond requirements for online sports wagering operator, sports wagering facility, sports wagering contractor, and sports wagering employee licensees
- Implement independent evaluator licensing and regulation requirements established in SB 621
- Consistent with the statute and amendments to Gaming regulations, authorizes sports wagering employees who are 18 to 20 years old to be in restricted areas if they are working
- Restricts wagering by Independent Evaluator employees
- Consistent with Gaming amendments, clarifies vendor registration requirements

Chapter 10 Enforcement of Voluntary Exclusion Program

Proposed amendments:

- Consistent with amendments to Gaming regulations, requires conspicuous posting of the gambling assistance message.
- Prohibits advertisements offering or suggesting guaranteed or risk-free gambling outcomes

Commissioner Hodges asked if these proposed changes are done in line with State law or if only a few mentioned in Mr. Nielsen’s report fall under that reasoning. Mr. Nielsen replied that unless it has been noted with regard to a specific statute, the changes were Staff or industry recommendations, with general cleanup. Mr. Nielsen said that MLGCA may note that something could be worded more clearly and will make the changes while in there.

Commissioner Hodges requested that MLGCA make sure it is clear what changes are being done to the regulations and whether it is in line with State law or just MLGCA’s recommendation.

Chapter 13 Sports Wagering Licensee Minimum Internal Control Standards

Proposed amendments:

- Consistent with Gaming amendments, reduce the frequency of an audit for two non-gaming functions
- Allow for a Class B-2 licensee to perform drop box collection with two employees
- Clarifies reserve requirement and player account requirements

- For consumer protection regulations, reorganize existing language non-substantively, and clarify requirements for promotions
- Implement SB 620, which prohibits institutions of higher education from contracting with sports wagering licensees if the licensees would profit from securing student participation in sports wagering

Chapter 14 Sports Wagering Requirements and Limitations

Proposed amendments:

- Prohibit Independent Evaluator employees from placing wagers
- Clarifies requirements for surety bonds that comprise part of a reserve

Chapter 15 Sports Wagering Licensee Facility Standards

Proposed amendments would authorize Agency Staff to approve facility design standards and facility plans.

Chair Marriner noted that it would be impossible for the Commission to go through these regulations word by word and line by line, and stated that the Commission relies on the Staff's recommendations as Staff are the professionals and the ones that do this every day. MLGCA advises the Commission so that the Commission is able to make reasonable approvals. Mr. Nielsen stated that is the goal. Chair Marriner stated that while it may seem brief, there is no way of knowing how else to handle such a presentation that would not take multiple days to complete.

Mr. Nielsen requested that the Chair make a motion to approve the proposed amendments to Title 36, Subtitle 10 as both emergency and regular regulations.

Chair Marriner asked for a motion to approve the proposed amendments to regulations, both as emergency and regular, to Title 36, Subtitle 10 Sports Wagering Provisions. Commissioner Stakem motioned to approve, Vice Chair Doetsch seconded, and the motion was unanimously approved by roll call.

SUBTITLE 11 SPORTS WAGERING APPLICATION REVIEW COMMISSION

Mr. Nielsen reported that MLGCA has included the text of a change being proposed to the Sports Wagering Application Review Commission (SWARC) in your package. This is informational only. No action is needed today because this change will be presented to and voted on by SWARC at its next meeting. MLGCA just wanted to be sure the Commission was aware of it.

Proposed amendments to Sports Wagering Application Review Commission include:

Chapter 02 All Applicants and Awardees

Proposed amendments would implement uncodified language in SB 621, which allows certain awardees to ask SWARC and the Commission to authorize a change to the business address identified in the applicant's Class B2 sports wagering facility application.

After informing the Commission of this final proposed regulation, Mr. Nielsen requested a motion by the Commission to delegate to MLGCA Staff the authority to make any non-substantive changes necessary to prepare them for publication in the Maryland Register.

Chair Marriner asked for a motion to delegate to MLGCA Staff the authority to make any non-substantive changes necessary to prepare them for publication in the Maryland Register. Vice Chair Doetsch motioned to approve, Commissioner Williams seconded, and the motion was unanimously approved.

Commissioner Croghan thanked MLGCA for the tedious job preparing the updates to the regulations. She asked if the summary was an annual review process, and if the Commission receives recommendations. Commissioner Croghan asked whether the Commission should expect to see amendments to the regulations every year. Mr. Nielsen responded that the Commission will see proposed regulations every year. MLGCA works with the industry, which used to be just casinos, but now includes sports operators as well. American Gaming Association (AGA) works with all casinos on changes, new trends, creates a list, and submits it to the Agency, who then debate recommendations and come up with suggestions when there are no statutory changes.

CLOSED SESSION

There was no need for the Commission to go into a closed session.

DATE AND TIME OF NEXT MEETING

The next Commission meeting will be held on Thursday, August 24, 2023, at 10:00 a.m., in person at Maryland Lottery Headquarters and via video conference.

ADJOURNMENT

There being no further business, Chair Marriner adjourned the meeting at 9:30 a.m.

Respectfully submitted,


John Martin
Director