

May 3, 2007

Volume 13, Issue 7

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A publication of
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The _____ MICHIGAN GAMING _____ Newsletter



MICHIGAN SENATE HEARING SCHEDULED TO REVIEW KALM APPOINTMENT AS GAMING CONTROL BOARD DIRECTOR

On May 9, 2007, the Michigan Senate Economic Development and Regulatory Reform Committee will hold an Advice and Consent hearing on the appointment of Mr. Richard Kalm as the new executive director of the Michigan Gaming Control Board. Mr. Kalm was appointed to this position by Governor Jennifer Granholm on March 29, 2007. Pursuant to the Michigan Gaming Control and Revenue Act, the position of executive director requires "approval of the Senate by a record roll call vote."

If approved by the Senate, Mr. Kalm will succeed Daniel Gustafson, who left the Gaming Control Board in November 2006.

The Senate Economic Development and Regulatory Reform Committee is chaired by Sen. Alan Sanborn (R-11th Dist.), and its members include Sen. Randy Richardville (R-14th Dist.), Sen. Jason Allen (R-37th Dist.), Sen. Jud Gilbert (R-25th District), Sen. Samuel Buzz Thomas (D-4th Dist.), Sen. Tupac Hunter (D-5th Dist.) and Sen. Gilda Jacobs (D-14th Dist.) The hearing will

be held at 1 p.m. in Rooms 402 and 403 of the Michigan capitol, located at 100 S. Capitol Avenue, Lansing, MI 48933.

If approved, Mr. Kalm will serve a six-year term and work with a five-member Gaming Control Board.

ARENAC COUNTY RESPONSE: SAGINAW CHIPPEWA CASINO PROJECT WELCOMED

On April 25, 2007, the Saginaw Chippewa Indian Tribe announced plans to open a second casino on its Saganing reservation, located in Arenac County, about 30 miles north of Bay City. (See *Michigan Gaming Newsletter*, Volume 13, Issue 6) The Tribe's Mt. Pleasant casino, Soaring Eagle Casino & Resort, has been in operation since 1993.

The Tribe is expected to break ground soon, and Tribal officials are hopeful the casino will be open by the end of 2007. Plans call for a 32,000-square-foot facility with approximately 700 slot machines and 40 electronic table games. Overall, the new development is also expected to bring in about 300 jobs.

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According to a recent article in the *Bay City Times*, the 17,000 people residing in Arenac County seem ready for the coming changes.

In an interview with the *Bay City Times*, Floyd Bender, a Whites Beach resident and Standish Area Chamber of Commerce board member, expressed his thoughts on the new casino.

“I think this will benefit the whole Sunrise Side of the state,” Bender. “I think it’ll affect small town businesses from Pinconning to Tawas.”

Pinconning Mayor Mike Duranczyk also told the *Bay City Times* that he expects to see positive impacts from the new casino.

“The traffic potential for us is phenomenal, and it’ll put them directly through our downtown,” said Duranczyk. “Three hundred jobs? Most with benefits? A person would be foolish to look down on that. This is a great thing for the region.”

The Tribe’s April 27 press release states that the project will be built on Tribal trust land and is considered on-reservation gaming. As such, the Tribe’s 1993 Tribal State Gaming Compact provides the mechanisms for the project to move forward.

U.S. DISTRICT COURT RULES MICHIGAN CLUB KENO GAMES DID NOT VIOLATE 1998 TRIBAL COMPACT EXCLUSIVITY

On April 27, 2007, Judge Wendell A. Miles of the United State District Court for the Western District of Michigan issued a written opinion granting summary judgment in favor of the state of Michigan and the Michigan Economic Development Corporation (“MEDC”) in their lawsuit against the Little River Band of Ottawa Indians (“Little River Band”) and the Little Traverse Bay Bands of Odawa Indians (“Little Traverse Bay Band”).

The lawsuit was filed by the state in June 2005, alleging that the respective Tribes breached the Tribal-State gaming compacts among the parties by failing to make certain payments to the state based on eight percent of the Tribes’ respective net win from electronic games of chance (slot machines).

The main issue in the lawsuit centered on whether the Tribes were still obligated to make these payments to the state after the state of Michigan Lottery Bureau introduced Club Keno games in October 2003.

Under the terms of the respective compacts, these Tribal payments to the state are only required so long as the “exclusivity” provisions remained in effect. These provisions provided that payments to the state would be required so long as:

“(1) There exists a binding Class III Compact in effect between the state and the Tribe,
(2) no change in state law is enacted which is intended to permit the operation of electronic games of chance or commercial casino games by any other person (other than the Detroit commercial casinos), and
(3) no other person (except a federally-recognized Tribe operating pursuant to IGRA and the Detroit commercial casinos) within the state lawfully operates electronic games of chance or commercial casino games.”

Club Keno games allow Class C liquor license holders in the state to sell keno game tickets in their establishment for games that are played every five minutes via a close network system that is televised across the state at participating locations. The Tribes took the position that the introduction of the Club Keno games negated their obligation to make these eight percent payments, as the Club Keno games caused the exclusivity provision of the respective compacts to terminate. However, the court disagreed.

In granting the state’s motion, the court concluded that:

“...as a matter of law...the language of the compacts is unambiguous and that the State’s operation of the Michigan lottery, including the Club Keno game or any other game authorized by the lottery bureau, does not terminate the Tribes’ payment obligations under the compacts.”

In addition to granting the state relief, the court also denied the Tribes’ motion for partial summary disposition, which sought return of over \$600,000 which had been paid to the state in November and December 2003.

The Tribes have not announced whether they will appeal the ruling to the U.S. 6th Circuit Court of Appeals.

MICHIGAN BUDGET SHORTFALL COULD RESULT IN GOVERNMENT LAYOFFS

The state of Michigan's economy has struggled to keep pace with the overall U.S. economy as a result of a downturn in the state's manufacturing industries and the overall sluggish U.S. automotive business sector. As a result, Michigan, which operates on an October – September fiscal year, is projected to have a \$700 million dollar shortfall in the current year's budget.

This shortfall has been all the buzz in the state, and the governor and Michigan Legislature have been focused on a solution to the problem, but an ultimate fix is still up in the air. The state's Democrats support a mixture of tax increases and cuts to state programs, while the Republicans feel the state needs to solve the problem without tax increases.

Yesterday, the Michigan Civil Service Commission voted unanimously to give Granholm's administration the ability to allow for a 20 day temporary layoff of some 15,000 state employees who do not have union representation. The rule change would allow:

- Twenty unpaid workdays per fiscal year;
- No employment preferences or bumping;
- The temporary layoff does not affect a break in service and continues to provide seniority, benefits and retirement as though the employee were working; and
- Automatic return to work in the same job at the end of the layoff.

ILLINOIS ADOPTS SMOKING BAN: CASINOS INCLUDED

On May 1, 2007, the state of Illinois, which receives a significant percent of its out-of-state gambling dollars from Michigan and Indiana residents, enacted legislation outlawing smoking in public places, including restaurants, bars and casinos. The prohibition will take effect January 1, 2008.

The prohibition will likely prove to be positive for the Four Winds Casino, currently under construction in New Buffalo, Michigan. The casino is slated for completion in August 2007, five months before the ban takes effect. The casino project can be monitored online at www.fourwindscasino.com/visit/webcam.

On the east side of Michigan, the three Detroit casinos, which are not subject to a smoking ban, experienced an increase in traffic this past year when neighboring Canada outlawed smoking in the province of Ontario. The Ontario ban took effect in May 2006.