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The MICHIGAN GAMING Newsletter



COURT OF APPEALS OVERTURNS CHARITY GAME RULES INJUNCTION

On Thursday, May 28, 2015, the Michigan Court of Appeals overturned an injunction against the Michigan Gaming Control Board ("MGCB") and its Executive Director that had prevented the implementation of new charity gaming rules governing Millionaire Parties. The rules, which originally went into effect on May 14, 2014, had been suspended following a Court of Claims ruling that the regulations did not follow the proper administrative procedures during the review, comment, and enactment periods.

The regulations have been challenged by the Michigan Charitable Gaming Association, which consists of a coalition of charity organizations that operate Millionaire Parties as fundraising events. On August 7, 2014, the Court of Claims placed an injunction on enforcement of the May 14, 2014 rules, finding that the rules were not properly instituted, as the Michigan Gaming Control Board was allowed, at the direction of state officials, to withdraw and make amendments to 3 of 50 rules before resubmitting the regulations for consideration. The charities argued that the rules could not be amended after the withdrawal.

In overturning the Court of Claims ruling, the Court of Appeals held that "we find nothing in the plain language of Section 245a [of the Administrative Procedures Act] that would prohibit an agency from making changes to a rule upon resubmission." Although the Court qualified its ruling by stating that significant changes to rules, which are more burdensome than originally drafted, may require an agency to restart the administrative approval process, and it found "that did not occur in the instant case. The agency made changes that were less burdensome to the affected industries and that were in accordance with the regulatory impact statements and small business impact statements."

Furthermore, the changes were adequately explained to state officials and were in response to public comments.

In a press release on the matter, MGCB Executive Director Richard Kalm stated “[t]his victory goes a long way toward insuring the integrity of gaming and the future of millionaire parties as a fundraising option for charities. The court recognized our ability to change the rules in response to legislative input.”

The case has been remanded to the Court of Claims for reconsideration in light of the Court of Appeals ruling.

The case is *Michigan Charitable Gaming Association, et. al. v. State of Michigan, et. al.*, Michigan Court of Appeals, Case No. 323410.

FIREKEEPERS ANNOUNCES LAUNCH OF SOCIAL GAMING PLATFORM

On May 21, 2015, FireKeepers Casino Hotel, in partnership with Scientific Games Corporation, announced the launch of a free-to-play social gaming platform titled Play4Fun Network. The program will be integrated into the casino’s existing SG Universe Mobile Concierge service and will be available online and in apps for Apple and Android operating systems.

In a press release on the matter, Vice President of Marketing for Firekeepers Casino, Jim Wise, stated that “[w]e are pleased to introduce FireKeepers extensive database of guests to the launch of our branded social casino. We expect the Play4Fun offering to enhance our entertainment options and attract new social gamers by leveraging the popular land-based gaming content our players love from the Bally, Barcrest, Shuffle Master and Williams game studios in an exciting web and mobile social casino environment.” The website is currently live and features a number of slot and video poker games.

FireKeepers Casino Hotel is owned by the Nottawaseppi Huron Band of the Pottawatomi, based in Fulton and with branch offices in Grand Rapids. The Band makes periodic payments to the State of Michigan and local governmental units in accordance with its Tribal-State Gaming Compact

with the state, including its most recent payment of over \$20 Million made in February.

LEGISLATION INTRODUCED TO REDIRECT TRIBAL GAMING REVENUE FOR ROAD IMPROVEMENTS

On Thursday, March 14, 2015, Michigan State Rep. Lee Chatfield (R-Levering) introduced legislation to reprioritize state funds and direct the revenue to fund road improvements throughout the state of Michigan. [House Bill 4608](#) seeks to amend the Michigan Strategic Fund by redirecting \$60 million in tribal gaming compact dollars to the Michigan Transportation Fund. Notably, the legislation will not alter tribal-state gaming compacts.

“Hard-working taxpayers across the state spoke loud and clear on the issue of roads,” said Rep. Chatfield. “The people of Michigan want a straightforward solution that prioritizes spending instead of raising taxes. My bill aims to make better use of existing funds by utilizing dollars the state already collects.”

According to Rep. Chatfield, the Michigan Strategic Fund currently receives an annual appropriation of \$360 million from the Michigan Economic Development Corporation, in which \$60 million comes from tribal gaming compact dollars.

HB 4608 has been referred to the newly created House Committee on Roads and Economic Development that was formed to approve the House transportation plan which includes Rep. Chatfield’s legislation.

“Finding a long-term plan for Michigan’s crumbling roads is one of our top priorities, and it is time the committee makeup of the Legislature reflected that,” said Speaker of the House Kevin Cotter (R-Mt. Pleasant). “Creating this committee allows us to come together and work quickly on a solution that fixes our roads, sets the stage for continued economic growth and gets Michigan moving again.”

NEVADA PASSES SKILL-BASED GAMING LAW

On May 19, 2015, Nevada Governor Brian Sandoval signed into law Senate Bill 9, which requires the Nevada Gaming Commission (“Commission”) to adopt regulations to allow skill-based gaming elements for casino games. The new law is expected to greatly expand the types of games that patrons can play in a casino by allowing new technologies and play styles to be utilized.

The law states that the Commission must “adopt regulations which encourage manufacturers to develop and deploy gaming devices, associated equipment and various gaming support systems that incorporate innovative, alternative and advanced technology.” These regulations may include games of skill, chance, or hybrid games featuring both elements. In addition, the law authorizes the Commission to allow multiplayer games that allow for “the interactive and concurrent play of games supported by networked server computers.”

The legislation was initiated in part by the Association of Gaming Equipment Manufacturers (“AGEM”), who polled slot machine technology companies prior to the introduction of the legislation on how best to create an innovative environment. After a wide consensus that variable payback games governed in part by player skill provided the greatest opportunity for creative game changes, AGEM forwarded its concept to a Nevada legislative committee that in turn recommended the concept to the legislature.

AGEM President and Chief Compliance Officer of Konami Gaming Thomas Jingoli announced that “AGEM is especially proud to be the initiator and one of the driving forces behind the milestone event.” Executive Director Marcus Prater also noted the event, stating in a press release, “I believe we will look back on the passage of SB 9 as a monumental moment for the gaming industry and its overall evolution. The slot floor will not transform overnight, but this will allow our industry to capitalize on radical new gaming concepts and technologies and give AGEM members the ability to unleash a new level of creativity for their casino customers.”

The legislation was also applauded by the American Gaming Association, which called on other gaming jurisdictions to follow Nevada’s lead and incorporate similar types of gaming options in their gaming facilities.

For more information on Senate Bill 9, including the text of the legislation, please visit the Nevada legislature’s website at: <https://www.leg.state.nv.us/Session/78th2015/Reports/history.cfm?BillName=SB9>