

WHAT'S UP AT THE GCB

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The State Gaming Control Board (“Board”) and the Nevada Gaming Commission have approved a number of highly publicized gaming applications over the past year or so which are reflective of the continuing evolution of gaming in Nevada. Words and phrases such as “private equity,” “mobile gaming” and “Macau” serve as reminders of the dynamic nature of the gaming industry. This article addresses a couple of the regulatory efforts undertaken by the Board to meet the challenges associated with these and other industry changes and progressions. Specifically, this article highlights several significant steps the Board has taken over the past two years to address the regulatory challenges that relate to the technology advances in the gaming industry. Additionally, it summarizes the 2007 legislative measures amending the Nevada Gaming Control Act, including those set forth in Assembly Bill 535 which was introduced on behalf of the Board, in part, because of the introduction of new gaming technologies and the increasing use of private equity financing.

THE BOARD'S TECHNOLOGY DIVISION

New gaming technologies, such as “system based” and wireless applications, and the convergence of “associated equipment” with gaming devices create an increasing reliance upon

digital solutions on the casino floor and into the resort. Preparing for the future now and fostering an environment where growth and innovation are encouraged, while upholding the regulatory mission of the State of Nevada, is the challenge at hand. The issue is how to manage these technologies through organizational structure, statutes and regulations that take, in some cases, years to update or change.

Examining the Situation

In March 2005, the Board and its staff began the process of analyzing the Board's current organizational structure as it relates to approving



new technology. The goals were simple enough. First, prepare the Board to be able to address the next 10-15 years of technology growth in Nevada's casinos. Second, maintain Nevada's competitive status through technological policy leadership. Third, recognize that stability is one of the cornerstones of Nevada's leadership position. Finally, execute the tactical plan of steering a State agency toward an infrastructure that allows for changing technology.

Meeting with the licensed manufacturers and operators to understand some of the challenges and concerns that these entities face was the first step. These meetings made one thing very clear: if the Board wanted to accomplish the above goals, it would be necessary for several internal and external changes. First, an organizational structure, in place since the 1970's, needed to be updated to address a changing industry. Second, additional staffing and resources to meet the increasing and evolving technology submissions would be required. Finally, revising and updating the Board's policy development, associated equipment and device approval processes needed to begin.

Reorganizing, Funding and the Future

The task before the Board was and is not an easy one. However, the first significant step was taken in February of 2006 by creating the new Technology Division. The Board consolidated all technology functions within one division. The new Division now includes the Board's gaming device and systems test lab, the Board's information technology audit staff which approves associated equipment, and the Board's internal information technology staff which supports internal information technology operations. This reorganization allowed for an alignment of device and associated equipment approval processes. It also allowed the Board to share technical resources for both regulatory and operational projects.

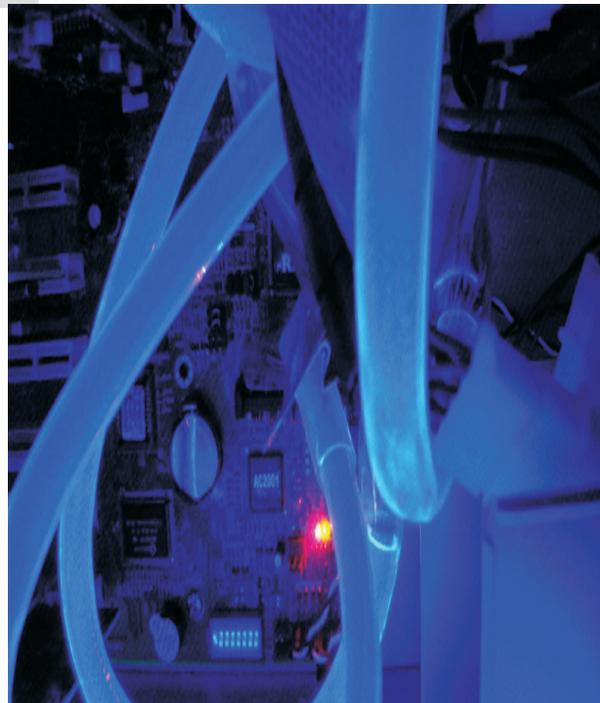
In June of 2006, the Nevada Legislature's Interim Finance Committee approved an additional \$2 million dollars of annual fee-based funding. The funding will allow the Board to double the Technology Division's staff and has allowed for the Division to relocate its testing laboratory and offices to be within close proximity to gaming manufacturers in Las

Vegas. The new office, located on Pilot Road in Las Vegas, has almost tripled the testing laboratory space. This further solidifies the Board's and the Legislature's determination that device and system testing are key components to the function of the Board.

The Technology Division's Scope of Responsibilities

While none of the responsibilities listed below are new, it is the combination of these functions that offer the most benefit to the regulatory process and the industry. In the past, many of the Board's approval processes were performed in a sequential fashion, elongating approval times. Now, accounting and technical analyses are performed on "risk" devices and systems with a defined parallel testing process. In addition, many testing procedures and

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checklists are provided for guidance to both manufacturers and operators. The renewed effort to publish or communicate approval processes and requirements is key to streamlining approvals. The playing field is level for all manufacturers, operators and interested parties who now have access to consistent information sets. All of this information is posted to the Board's website for access (www.gaming.nv.gov). The gaming

device approval processes are sound and clearly defined in Nevada Gaming Commission Regulation 14. The Technology Division continues to meet or exceed industry timing expectations for modification approvals for gaming devices. Moreover, the Division will examine and implement best practices used for gaming device approvals and apply them to all



approvals requested of the Technology Division. Finally, the Division is also moving as many transactions as possible to electronic mediums, such as email and on-line forms.

To summarize, the Technology Division's responsibilities now include: conceptual gaming device approvals; new gaming device approvals; modifications to gaming device approvals; new associated equipment approvals; modifications to associated equipment approvals; field verification of gaming device configurations; field verification of gaming device EPROM; and Nevada Gaming Commission Regulation 14 governance, including such items as the

suitability of gaming device themes, patron dispute resolutions and cashless wagering instrument approvals. Finally, all internal hardware and software installation, development and support for all Board employees and six offices throughout the State of Nevada are directed through the Technology Division.

Regulatory and Operational Change for the Future

Within the scope of the Nevada Gaming Commission Regulations, there are several areas where the Technology Division is focusing its efforts due to changing technology. For example, system based games bring an entirely new set of regulatory challenges in terms of the people that will have access to traditionally firmware coded applications. As gaming devices and associated equipment continue to merge, our responsibility to understand the software interfaces and the networks that host these devices and systems will increase. Another example will be the challenges associated with the field verification process for wireless applications.

In addition to the regulatory scope, the Technology Division has another important "change agent" task. The internal applications that drive much of the workflow and procedures used throughout the Board are being updated for the future. To that end, the Information Technology staff, working in conjunction with all Board divisions, are evaluating and re-writing the Board's existing business applications. The application upgrade from DEC COBOL programs to Oracle and Oracle forms application modules will take place over the next four years.

Building the Foundation for the Future

Funding acquisition, agency reorganization, regulatory scope examination and the "porting" of internal business applications are now in place to begin the process of revitalizing the Technology Division over the next two years. With any significant organizational change, especially within a State agency, the path may be bumpy and full of surprises. Clearly, there is much more work to be done. Most importantly, the Board is in the process of hiring technical staff to help meet the new requirements and the increased volume of

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approval requests from the industry.

Setting Technology Policy in a Regulatory Environment - Are We Doing It Right?

The Board, in conjunction with the Technology Division, is evaluating the process by which we adopt and set policy as it relates to technology. New technology on the gaming floor drives new and old policy matters that need to be considered. In addition to the case by case items that are vetted on a daily basis, the Technology Division is exploring questions such as: How can we maintain a stable and safe environment while encouraging innovation and growth through technological policy? Are we setting technology policy at the right pace? What is the best process for setting these policies? These questions are not easily answered and are to be carefully considered. However, they are necessary components of the Board's ability and responsibility to its regulatory mission and licensees.

2007 NEVADA GAMING LEGISLATION ASSEMBLY .BILL 535

In addition to positioning itself to meet the challenges associated with technological advances in the gaming industry, the Board, as in prior Nevada Legislative Sessions, introduced a bill in 2007, Assembly Bill ("A.B.") 535, which resulted in several noteworthy amendments to the Nevada Gaming Control Act ("Act"), including the following:

"Gaming Employees"

The definition of "gaming employee" set forth in Nevada Revised Statute ("NRS") 463.0157 has been amended to include employees of nonrestricted licensees whose duties are directly involved in:

- (1) The processing of gaming employee registration applications; and
- (2) The manufacture, repair or distribution of gaming devices, cashless wagering systems, mobile gaming systems, interactive gaming systems and related associated equipment.

With respect to the latter, before this statute was amended, only employees of licensed manufacturers and distributors who performed such duties were required to register as gaming employees pursuant to NRS 463.335. The

amendment will ensure that employees of nonrestricted licensed gaming establishments who perform similar duties register as gaming employees.

Additionally, NRS 463.01858, 463.01955, 463.335 and 463.337 have been amended to eliminate the requirement that independent agents who reside in Nevada register as gaming employees pursuant to NRS 463.335. As a result, Nevada-based independent agents need only continue to comply with the registration requirements applicable to all independent agents set forth in NGC Regulation 25, including those who reside outside of Nevada.

Patron Disputes

NRS 463.362 which set forth the procedures which must be followed when there is a dispute between a licensee and a patron with respect to alleged winnings, alleged losses or the manner in which a gambling game is conducted has been amended. Now it also captures disputes involving the award or distribution of cash, prizes, benefits, tickets or any other item or items in a tournament, contest, drawing, promotion or a similar activity or event as well as disputes involving the manner in which those activities or events are conducted.

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Unsuitable and Denied Applicants and Licensees

The provision in NRS 463.165 requiring the Board to maintain and make available to every licensee a list of persons who have been denied a license, been found unsuitable or had a license or finding of suitability revoked and the reference to this requirement in NRS 463.167 and 463.645 have been consolidated into a new statute. This new statute also authorizes a person whose name is on such list, known as the "Grey List," to apply for removal of his name from the list no earlier than 5 years after the date on which he was denied a license, found unsuitable or had a license or finding of suitability revoked.

Additionally, NRS 463.645 was further amended to prohibit any and all licensees and their affiliates from paying remuneration to, contracting with, or employing a person who has been denied a gaming license, been found unsuitable, or has had his license or finding of suitability revoked. Prior to being amended, NRS 463.645, arguably, only prohibited the licensee (and affiliates) with whom such a person was associated at the time his name was placed on the "Grey List" from paying remuneration to, contracting with, or employing the person. As amended, this industry-wide prohibition is consistent with the same prohibition set forth in NRS 463.165 pertaining to individuals deemed to have the power to exercise significant influence over a licensee's operations who have been denied a gaming license or had a license revoked.

Foreign Limited Partnerships and Limited-Liability Companies

Consistent with the provisions in NRS 463.490 pertaining to non-publicly traded corporations, NRS 463.4862, 463.4864, 463.4865, 463.564 and 463.5731 have been amended to allow limited partnerships and limited-liability companies formed under the laws of another state to obtain a state gaming license. As a result, foreign limited partnerships and limited-liability companies will no longer need to seek a waiver to obtain a gaming license.

Granting and Exercise of Options to Purchase Interest in Unlicensed Entity

NRS 463.505, 463.5665 and 463.57325, address the granting of options to purchase any

security or interest issued by a non-publicly traded corporation (NRS 463.505), limited partnership (NRS 463.5665) and limited



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liability company (NRS 463.57325). Prior to being amended, these entities were eligible to grant such options only if they possessed a gaming license. As amended, these statutes authorize a non-publicly traded corporation, limited partnership and limited liability company, which does not hold a gaming license but, by definition, constitutes a "holding company" or an "intermediary company" because it owns or is deemed to control a subsidiary that holds or applies for a state gaming license, to grant options after obtaining administrative approval from the Chairman of the Board.¹ Additionally, since a "holding company" and an "intermediary company" may now grant options, NRS 463.510, 463.567 and 463.5733 have been amended to subject the exercise of such options to the prior approval of the Nevada Gaming Commission.

Further, consistent with NRS 463.505 and 463.510 which, respectively, make the purported granting or exercise of an option to purchase any security issued by a non-publicly traded corporations "void" unless, as reflected above, approved in advance, the similar provisions applicable to limited partnerships and limited-liability companies set forth in NRS 463.5665, NRS 463.57325, NRS 463.567 and NRS 463.5733 have been amended to make the

purported granting or exercise of an option to purchase any interest in such entities also “void,” rather than “ineffective,” if not approved in advance.

Suitability to Own Non-Voting Securities of Publicly Traded Corporation



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Prior to being amended, NRS 463.643 authorized the Nevada Gaming Commission to require any person who acquires, directly or indirectly, beneficial ownership of any voting or debt security in a registered publicly traded corporation to apply for a finding of suitability. This statute has been amended to also provide that a person who acquires, directly or indirectly, beneficial or record ownership of any non-voting security in a registered publicly traded corporation may also be required to be found suitable.

Antique Gaming Devices

By regulation, an unlicensed person who owns an “antique gaming device” may only sell such a device through a licensed distributor upon the prior approval of the Chairman of the Board (Nevada Gaming Commission Regulation 14.320). An “antique gaming device” is defined in NRS 463.650(9)(a). This definition has been amended to capture gaming devices manufactured before 1961. Prior to the amendment, only those gaming devices manufactured before 1951 constituted “antique gaming devices” and could be sold by an unlicensed individual pursuant to NGC Regulation 14.320 so long as the device is sold to someone residing in a jurisdiction wherein such ownership is legal.

Possession, Sale and Manufacture of Counterfeit Items

NRS 465.080 makes it unlawful to use counterfeit chips, counterfeit debit instruments or

other counterfeit wagering instruments in a gambling game, associated equipment or a cashless wagering system. This statute has been amended to also make it unlawful to possess, sell or manufacture such counterfeit items. Additionally, this statute also makes it unlawful to possess, use, sell or manufacture any counterfeit instruments, counterfeit tickets or other counterfeit items used to determine the outcome of any contest or promotional activity conducted by or on behalf of any licensee.

Additional 2007 Gaming Legislation

In addition to A.B. 535, which can be found at the Nevada Legislature's website at <http://www.leg.state.nv.us/>, there were several other bills enacted in 2007 that amended the Act.² Specifically, A.B. 179 changes the date on which the terms of office of the Board members begin from January 1 to the last Monday in January. Additionally, A.B. 589 provides for the continued operation of the Nevada Gaming Commission and the Board during a budgetary or other fiscal crisis. And finally, Senate Bill 453 makes permanent the provision set forth in NRS 463.320(2)(e), which was set to expire on June 30, 2007, that requires the Nevada Gaming Commission to deposit quarterly into the Revolving Account to Support Programs for the Prevention and Treatment of Problem Gambling an amount equal to \$2 for each slot machine subject to the license fees imposed pursuant to NRS 463.373 and 463.375.

As you can see, with the consolidation and relocation of the Board's technology functions and the enactment of A.B. 535, the Board continues to be responsive to industry changes. This is in large part due to the efforts of our visionary Board members, Board staff and former Technology Division Chief Joe Bertolone. With the continued support of the Board members, the industry, and Board staff, a foundation for dealing with changing technology and other regulatory matters has been laid to ensure that the Board and Nevada Gaming Commission continue to fulfill their regulatory duties. **NGL**

¹“Holding company” and “intermediary company” are defined in NRS 463.485 and 463.486, respectively.

² S.B. 72, S.B. 242 and S.B. 473 also amend the Act; however, the amendments are not material in nature.