

HOUSE BILL REPORT

HB 1449

As Amended by the Senate

Title: An act relating to independent auditor reports and financial statements of licensees regulated by the gambling commission.

Brief Description: Regarding nondisclosure of certain information of gambling commission licensees.

Sponsors: By Representatives Condotta, Armstrong, Curtis, Orcutt and Dunn.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/2/07, 2/23/07 [DP].

Floor Activity:

Passed House: 3/7/07, 93-1.

Senate Amended.

Passed Senate: 4/9/07, 46-1.

Brief Summary of Bill

- Exempts from disclosure independent auditors' reports and financial statements filed with the Washington State Gambling Commission (Commission) unless the person who is the subject of the audit consents to the release.
- Requires that the Commission notify the person who is the subject of the audit if a request is made for independent auditors' reports and financial statements.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 9 members: Representatives Hunt, Chair; Appleton, Vice Chair; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Green, Kretz, McDermott, Miloscia and Ormsby.

Staff: Alison Hellberg (786-7152).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Gambling Commission

Under the Washington Gambling Act of 1973, the Gambling Commission (Commission) has exclusive authority to license and regulate gambling activities, including house-banked card games. The Commission issues licenses for a one-year period. Those licensed to operate house-banked card games must prepare financial statements covering all financial activities of the establishment for each business year. The license application form and all supplemental information submitted at the Commission's request are public records.

The financial statements must be:

- prepared by an independent, certified public accountant who is licensed by the state of Washington; and
- submitted on a comparative basis (except that the first year may be submitted for the current business year only).

Gross revenues from each licensed activity should be reported by activity and separated from all other revenues.

Public Records Act

The Public Records Act requires that all state and local government agencies make all public records available for disclosure unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally and the exemptions narrowly in order to effectuate a general policy favoring disclosure.

Agencies may provide notice to a person who is named in a public record or to whom the record specifically pertains that release of a record has been requested.

Summary of Bill:

Independent auditors' reports and financial statements of licensees required by the Commission are exempted from disclosure under the Public Records Act.

The Commission must notify the person who is the subject of the audit if such a request is received. The Commission may only release the records if the person consents.

These provisions apply retroactively.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment establishes that the exemption only applies to materials submitted to the Gambling Commission by house-banked social card game licensees. The Gambling Commission is not required to notify the person who is a subject of an audit when the Gambling Commission receives a request for disclosure of an independent auditors' report and financial statements. The Senate amendment also removes the Gambling Commission's authorization to release independent auditors' reports and financial statement if the subject of an audit consents to the release.

The Senate amendment clarifies that the authority of the Gambling Commission to require licensees to submit independent auditors' reports and financial statements is pursuant to rules adopted under chapter 9.46 RCW.

The section making the exemption to public disclosure apply retroactively is removed. The emergency clause is also removed so the bill takes effect 90 days after the end of session.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately, except section 2, relating to financial, commercial, and proprietary information exemptions to the Public Records Act, which takes effect June 30, 2008.

Staff Summary of Public Testimony:

(In support) This bill allows licensees, especially house-banked card rooms, more privacy regarding their financial statements. This is a highly regulated industry so papers to be filed are highly detailed. It is necessary for the Gambling Commission to receive this information, but it should not be made public. Nobody ever understood that these reports would be considered public records. This issue is presently before the Washington State Court of Appeals; this bill would end that lawsuit. This bill clarifies that information should go to the Gambling Commission for purposes of regulation, but not be released to competitors.

(Neutral) The Commission has received 18 requests for information included in this bill, two of them in 2007. Charitable/non-profit organizations also file this information, but there has never been a request for that information. The retroactivity portion of the bill is meant to get at the pending lawsuit. Some of the information should still be posted because there is a history of corruption in gambling so transparency is important.

(Opposed) None.

Persons Testifying: (In support) Representative Condotta, prime sponsor; Thomas Rask, New Phoenix and Last Frontier Casinos; and Dolores Chiechi, Recreational Gaming Association.

(Neutral) Amy B. Hunter, Washington State Gambling Commission.

Persons Signed In To Testify But Not Testifying: None.